



State of Utah

Department of  
Environmental Quality

Dianne R. Nielson, Ph.D.  
*Executive Director*

DIVISION OF AIR QUALITY  
Richard W. Sprott  
*Director*

**Air Quality Board**

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*Executive Secretary*

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*Lieutenant Governor*

**UTAH AIR QUALITY BOARD MEETING**

**DRAFT AGENDA**

Working lunch session will be held prior, the  
topic will be PM 2.5 Standards.  
12:00-1:30 p.m.

**Wednesday, February 7, 2007**  
**1:30 p.m.**

168 North 1950 West (Bldg #2) Room 101

- I. Call-to-Order.
- II. Date of the Next Air Quality Board Meeting: March 14, 2007.
- III. Approval of the **Minutes for January's Board Meeting.**
- IV. **Propose for Public Comment:** State Implementation Plan, Transportation Conformity Consultation, to Replace Section XII, Involvement, of the Utah State Implementation Plan (SIP), and Amend R307-110-20 to Reflect This Change. Presented by: Rick McKeague.
- V. **Final Adoption:** Amend R307-120, General Requirements: Tax Exemption for Air and Water Pollution Control Equipment. Presented by: Tim Blanchard.
- VI. **Final Adoption:** Amend R307-214-2, National Emissions Standards for Hazardous Air Pollutants. Presented by: Eileen Brennan.
- VII. **Final Adoption:** New State Implementation Plan Section XXII, *Interstate Transport*, and R307-110-36. Presented by: Dave McNeill.
- VIII. **Five-Year Reviews:** R307-120, R307-130, R307-135, and R307-301. Presented by: Mat Carlile
- IX. **Pacificorp's Renewed Intervention Request** for Sevier Power Permit

Appeal. Presented by Fred Nelson.

- X. **Final Adoption of a Discovery Schedule** for Sevier Power and IPP Requests for Agency Action. Presented by Fred Nelson.
- XI. Informational Items
  - A. **Compliance.** Presented by Bryce Bird.
  - B. **HAPS.** Presented by Robert Ford.
  - C. **Monitoring.** Presented by Bob Dalley.

In compliance with the American with Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Charlene Lamph, Office of Human Resources at (801) 536-4413 (TDD 536-4414).

**UTAH AIR QUALITY BOARD MEETING**  
**January 3, 2007**

**DRAFT MINUTES**

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**I. Call to Order**

John Veranth called the meeting to order at 1:38 PM

Board members present:

Nan Bunker, Jim Horrocks, Dianne R Nielson, Wayne Samuelson, Joann Seghini, Don Sorensen, Ernest Wessman, Scott Lawson and John Veranth.

Executive Secretary: Richard W. Sprott

Board members excused:

Stead Burwell and Jerry Grover

**II. Date of the Next Air Quality Board Meeting**

February 7, 2007 will be set as a tentative date for the next Board meeting.

**III. Approval of the Minutes for December 6, 2006 Board Meeting**

One minor change was noted.

- Mr. Wessman made the motion to approve December 6, 2006 minutes. Mr. Sorensen seconded and the Board approved unanimously.

**IV. Final Adoption: 8-Hour Ozone Maintenance Provisions for Salt Lake and Davis Counties, to replace Section IX.D of the Utah State Implementation Plan (SIP), and R307-110-13, Section IX, Control Measures for Area and Point Sources, Part D, Ozone; R307-320, Davis, Salt Lake and Utah Counties, and Ogden City: Employer-Based Trip Reduction Program; R307-325, Davis and Salt Lake Counties and Ozone Nonattainment Areas: Ozone Provisions; R307-326, Davis and Salt Lake Counties and Ozone Nonattainment Areas: Control of Hydrocarbon Emissions in Refineries; R307-327, Davis and Salt Lake Counties and Ozone Nonattainment Areas: Petroleum Liquid Storage; R307-328, Davis, Salt Lake, Utah and Weber Counties and Ozone Nonattainment Areas: Gasoline Transfer and Storage; R307-335, Davis and Salt Lake Counties and Ozone Nonattainment Areas: Degreasing and Solvent**

**Cleaning Operations; R307-340, Davis and Salt Lake Counties and Ozone Nonattainment Areas: Surface Coating Processes; R307-341, Davis and Salt Lake Counties and Ozone Nonattainment Areas: Cutback Asphalt; R307-342, Davis, Salt Lake, Utah and Weber Counties and Ozone Nonattainment Areas: Qualification of Contractors and Test Procedures for Vapor Recovery Systems for Gasoline Delivery Tanks; R307-343, Davis and Salt Lake Counties and Ozone Nonattainment Areas: Emissions Standards for Wood Furniture Manufacturing Operations; and R307-101-2, Definitions. Presented by Robert Clark.**

Mr. Clark stated that on September 6, 2006 the Board proposed the document, *8-Hour Ozone Maintenance Provisions for Salt Lake and Davis Counties*, to replace Section IX.D of the Utah State Implementation Plan (SIP). The Board also proposed changes to the associated rules to make them compatible with the new 8-Hour Ozone Maintenance Plan. A 30-day public comment period was held, and a public hearing was conducted on October 17, 2006. No comments related to these proposals were made at the public hearing; however, some written comments were received. These written comments suggested clarifying changes to the SIP and some of the rules. No substantive changes have been made. A summary of the comments and staff responses is attached, as well as a copy of the updated SIP and rules reflecting the responses to the comments received. The staff recommends that the Board adopt the Ozone Maintenance Plan, and all of the unchanged proposed and revised rules.

- Mr. Wessman made the motion to adopt 8-Hour Ozone Maintenance Provisions for Salt Lake and Davis Counties, to replace Section IX.D of the Utah State Implementation Plan (SIP), and R307-110-13, Section IX, Control Measures for Area and Point Sources, Part D, Ozone; R307-320, Davis, Salt Lake and Utah Counties, and Ogden City: Employer-Based Trip Reduction Program; R307-325, Davis and Salt Lake Counties and Ozone Nonattainment Areas: Ozone Provisions; R307-326, Davis and Salt Lake Counties and Ozone Nonattainment Areas: Control of Hydrocarbon Emissions in Refineries; R307-327, Davis and Salt Lake Counties and Ozone Nonattainment Areas: Petroleum Liquid Storage; R307-328, Davis, Salt Lake, Utah and Weber Counties and Ozone Nonattainment Areas: Gasoline Transfer and Storage; R307-335, Davis and Salt Lake Counties and Ozone Nonattainment Areas: Degreasing and Solvent Cleaning Operations; R307-340, Davis and Salt Lake Counties and Ozone Nonattainment Areas: Surface Coating Processes; R307-341, Davis and Salt Lake Counties and Ozone Nonattainment Areas: Cutback Asphalt; R307-342, Davis, Salt Lake, Utah and Weber Counties and Ozone Nonattainment Areas: Qualification of Contractors and Test Procedures for Vapor Recovery Systems for Gasoline Delivery Tanks; R307-343, Davis and Salt Lake Counties and Ozone Nonattainment Areas: Emissions Standards for Wood Furniture Manufacturing Operations; and R307-101-2, Definitions. Ms. Bunker seconded and the Board approved unanimously.

**V. Final Action: Delete R307-332, Stage II Vapor Recovery Systems. Presented by Robert Clark.**

Mr. Clark stated that on September 6, 2006, the Board proposed to delete R307-332, Stage II Vapor Recovery Systems. A 30-day public comment period was held, and a public hearing was conducted on October 17, 2006. No comments related to this rule were received either at the public hearing or during the public comment period. The staff recommends that R307-332 be deleted.

- Mr. Wessman made the motion to delete R307-332, Stage II Vapor Recovery Systems. Mr. Lawson seconded and the Board approved unanimously.

**VI. Establishing the Schedules for Hearing for Sierra Club Appeals of IPP and Sevier Power Approval Orders. Presented by Fred Nelson.**

Due to an administrative error Sierra Club's proposed schedule and memorandum were not provided to the Board prior to the meeting. The Board adjourned at 1:59 PM to review the documentation. They reconvened at 2:32 PM after review of Sierra Club's proposed schedule.

Mr. Nelson wanted the Board to know that Millard County would not intervene and PacifiCorp will not intervene in the IPP matter but will request intervention in Sevier Power. He then stated that discovery involves request for admissions, interrogatories, and depositions. Expert witnesses have specific discovery provisions under the rules. Document requests are another part of discovery.

Joro Walker and David Becker, attorneys for Sierra Club and Grand Canyon Trust, then presented their proposal. Ms. Walker first stated that there was a rule citation correction, 307 vs. 304, in their package. She explained that Utah rules for civil procedures apply under the state Administrative Procedures Act. Because the AQB has no discovery rules, the civil procedure rules apply which would allow 330 days. Mr. Rawson stated that the Board is not required to apply the time schedules in the civil procedure rules. Then Ms. Walker stated that the Utah Supreme Court ruled that the process must be fair, it must be a meaningful hearing and it must review issues of significant public importance. Ms. Walker noted that DAQ has not responded to Sierra Club's request for Agency Action. They requested the administrative records for the permits be prepared before a schedule for discovery can begin.

Mr. Brian Burnett, attorney for Sevier Power in the absence of Fred Finlinson stated that he would like Sevier Power to present first and felt that the Sierra Club does not need more time.

Ms. Walker urged for more time and stated she doesn't want the hearing to be concurrent with the IPP hearing.

Mr. Blaine Rawson, attorney for IPSC stated that there may be possible conflicts by Mr. Veranth due to his contributions to Western Resource Advocates. Mr. Veranth stated the Board could consider another presiding officer.

- Mr. Horrocks made the motion that the Board hold the Sevier Power hearing during the month of September 2007 and discovery be completed by end of July, 2007. The IPP hearing would be held during the month of November 2007 with discovery completed by the end of August 2007. Mr. Sorensen seconded and the Board approved unanimously. The Board asked that the parties meet and provide a schedule for the two matters consistent with these dates for hearing.
- After discussion of whether Ms. Nielson could serve as presiding officer, Mr. Sorensen made the motion that Mr. Horrocks be appointed as interim presiding officer. Ms. Bunker seconded and the Board approved unanimously.

## **VII. Informational Items**

### **A. Regional Haze: Sulfur Dioxide Milestone Report for 2005. Presented by Jan Miller.**

Ms. Miller is retiring from Air Quality. Mr. Sprott stated that she has been a tremendous asset to the division and everyone will miss her.

### **B. Compliance. Presented by Bryce Bird.**

### **C. HAPS. Presented by Robert Ford.**

### **D. Monitoring. Presented by Bob Dalley.**

Mr. Veranth stated that due to length of the meeting the informational items would not be addressed.

**Meeting adjourned at 5:14 PM.**



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DAQ-006-07

## MEMORANDUM

**TO:** Air Quality Board

**THROUGH:** Richard W. Sprott, Executive Secretary

**FROM:** Richard McKeague, Air Quality Transportation Planner

**DATE:** January 05, 2007

**SUBJECT:** Propose for Public Comment: State Implementation Plan, *Transportation Conformity Consultation*, to replace Section XII, *Involvement*, of the Utah State Implementation Plan (SIP), and amend R307-110-20 to reflect this change

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The transportation conformity process was first adopted in the 1990 Clean Air Act Amendments as a tool for regions and states to use to facilitate the coordination of air quality and transportation planning. Under 42 U.S.C. 7506 and 40 CFR Part 51.390, states are required to develop, as part of the State Implementation Plan (SIP), documentation of the transportation conformity consultation process. The attached Section XII, *Transportation Conformity Consultation*, of the SIP meets the most current version of these federal requirements.

Section XII outlines the procedures to be followed to address transportation related issues during SIP development. It also outlines the procedures to be followed in the development of conformity determinations on transportation plans, programs, and projects. This section has been developed by staff for the Division of Air Quality working with staff from the Environmental Protection Agency (EPA), the U.S. Department of Transportation, the Utah Department of Transportation, metropolitan planning organizations, and local transit agencies who are all involved in these procedures.

There are two key elements to the transportation conformity consultation process. The first is involvement of the transportation planning agencies in the development of a SIP for various criteria pollutants, and the development of the mobile source emissions budget established in that SIP. The second is the conformity demonstration that ensures the transportation control measures specified in a SIP are implemented in a timely fashion. If any agency cannot demonstrate conformity with the SIP, then the affected agencies need to work together to change either the Regional Transportation Plan, Transportation Improvement Program, or the SIP.

The purpose of the proposed revisions to Section XII of the SIP is to formalize the current consultation process and to ensure early coordination and negotiation among all parties affected by transportation conformity, and R307-110-20 incorporates the plan into the state rules.

Staff Recommendation: Staff recommends that Section XII of the SIP, Transportation Conformity Consultation, and R307-110-20 be proposed for public comment.



**UTAH STATE IMPLEMENTATION PLAN**

**SECTION XII**

**TRANSPORTATION CONFORMITY CONSULTATION**

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# TRANSPORTATION CONFORMITY CONSULTATION SIP

## A. INTRODUCTION

### History

The air quality and transportation planning agencies in Utah have had a cooperative working relationship for decades. Following the adoption of the Clean Air Act (CAA) in 1970, the Utah State Bureau of Air Quality, and the Metropolitan Planning Organizations (MPOs), Mountainland Association of Governments (MAG) and Wasatch Front Regional Council (WFRC), established separate agreements in 1978. These agreements were in response to Environmental Protection Agency's (EPA) non-attainment designations in Utah during the 1970's and were updated following the 1990 Clean Air Act Amendments and numerous subsequent amendments to the federal transportation conformity rule since 1993. Currently, the Utah Division of Air Quality (UDAQ) has revised Memorandums of Agreement with MAG (2000) and WFRC (2005). Throughout the years these agencies have continued to work together to achieve sound transportation and air quality objectives.

### Rules & Regulations

The rules and regulations for a Transportation Conformity State Implementation Plan (SIP) are established in Title 40 Protection of Environment Code of Federal Regulation (CFR) Part 93 *Determining Conformity of Federal Actions to State or Federal Implementation Plans* (referred to hereafter as the "Conformity Rule") Section 105 *Consultation*. The Conformity Rule outlines the criteria for consultation procedures related to transportation conformity. The *2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users* (SAFETEA-LU) under Section 6011(f) (4) allows for a streamlined document to address consultation procedures. As new federal regulations affecting transportation planning and air quality are created in the future, the Transportation Conformity SIP will be updated as necessary.

### Transportation Conformity

The Transportation Conformity SIP applies to all EPA designated non-attainment and maintenance areas for transportation related criteria pollutants within the state of Utah. The Transportation Conformity SIP applies to any area in Utah that is designated or may be designated in the future as a non-attainment or maintenance area.

## **B. TRANSPORTATION CONFORMITY CONSULTATION**

### **Affected Agencies**

For the purposes of consulting on transportation conformity issues, the following participating agencies will comprise the Interagency Consultation Team (ICT):

- Utah Division of Air Quality (UDAQ)
- Utah Metropolitan Planning Organizations (MPOs) located in EPA designated non-attainment and maintenance areas
- Utah Department of Transportation (UDOT)
- Utah Local Public Transit Agencies
- Federal Highway Administration (FHWA)
- Federal Transit Administration (FTA)
- U.S. Environmental Protection Agency (EPA)

The ICT is a workgroup that makes technical and policy recommendations regarding transportation conformity issues. The workgroup will be comprised of management and technical staff members from the affected agencies associated directly with transportation conformity. Each agency will appoint a designated contact for the ICT. The appropriate agency and its policy body will determine policy level decisions, such as adopting the Regional Transportation Plan (RTP), Transportation Improvement Program (TIP), and SIP.

The ICT is a forum to continue the dialogue and sharing of information between air quality and transportation planning agencies regarding transportation conformity. Participating agencies provide coordination, advice, consultation, and cooperation regarding air quality and transportation planning. The forum uses a variety of communication methods for consultation: meetings, written and electronic correspondence, workshops, site visits, telephone discussions, and websites. The form of consultation that the ICT undertakes largely depends on the proposal, the complexity, and the relationship with the parties to be consulted.

### **Authorities & Limitations**

The affected agencies operate according to specific responsibilities, authorities, and limitations under various federal and state laws. In addition, because of an established working relationship, the agencies listed above recognize and respect the responsibilities, authorities and limitations of the other participating agencies. Each agency bears a responsibility to provide data and documentation in a timely manner for use by other agencies. Each agency is responsible for following the relevant state and federal requirements for public participation, public notice and comment, and formal adoption procedures. The respective agencies acknowledge a responsibility to notify each other of upcoming actions that will affect the domain of any other affected agencies.

**ICT Process Initiation:****Transportation Conformity Actionable Events and Lead Agency Roles**

The ICT consultation process is to be initiated and directed by the corresponding lead agency for the following transportation conformity tasks and events. The designation of a lead agency is determined by legal obligations and professional expertise. Any ICT member agency may initiate the consultation process to address pertinent air quality or transportation planning issues related to transportation conformity events.

- Development/review of on road mobile source emissions models and methods - lead agency: MPO, or UDAQ, or EPA;
- Development/review of travel demand models or any other analytical methods used to predict vehicle miles traveled - lead agency: MPO or UDOT;
- Development/review of regionally significant projects and changes - lead agency: MPO or UDOT;
- Development/review of drafts for a new or amended RTP, TIP, or conformity analysis - lead agency: MPO;
- Development/review of air quality modeling and or any other analytical methods used for SIP development - lead agency: UDAQ;
- Develop a list of the Transportation Control Measures (TCMs) to be considered in the development/review of draft or revisions to the SIP, if necessary - lead agency: MPO;
- The MPO will draft a list of TCMs which are in the applicable implementation plan and present this list to the ICT for review and concurrence - lead agency: MPO;
- Development/review of draft or revisions to the SIP - lead agency: UDAQ;
- Notification of pending transportation conformity lapse - lead agency: FHWA;
- Notification of SIP findings that may lead to nonconformity and/or sanctions - lead agency: EPA;
- Revisions to a TCM prepared by the MPO for UDAQ to include in the SIP - lead agency: MPO;

**Regular ICT Agency Roles & Responsibilities**

**The lead ICT agency is responsible for the following:**

- Initiate the ICT consultation process according to transportation conformity actionable events established above;
- Consult with the appropriate representatives of the ICT agency;
- Formulate and distribute ICT draft and final meeting agendas to representatives of the ICT agency in a timely manner;
- Notify and Provide ICT agencies draft and final documents and appropriate supporting materials prior to formal adoption or publication;
- Solicit input from the ICT agencies through participation in the development of draft documents and supporting materials;
- Review significant comments from ICT agencies and provide responses in a timely manner prior to formal adoption of the final document;
- Provide written responses to all comments from ICT member agencies;

**The non-lead ICT agencies are responsible for the following:**

- Participate in the ICT consultation process according to transportation conformity actionable events established above;
- Consult with the lead ICT agency and other ICT agencies;
- Provide input and technical assistance when requested;
- Review and provide comments on draft and final documents and appropriate supporting information prior to formal adoption
- Request written responses to comments provided to the lead ICT agency.

## **C. Specific Roles & Responsibilities**

### **Utah Division of Air Quality**

UDAQ is the agency responsible for air quality planning, and is responsible for developing air quality plans known collectively as the State Implementation Plan (SIP). The SIP is an air quality plan that includes the control measures needed to demonstrate either attainment or maintenance of the federal National Ambient Air Quality Standards (NAAQS). UDAQ is responsible for air quality modeling or any applicable analytical methods for SIP development. UDAQ consults with affected parties and agencies throughout the SIP development process conducting briefings and workshops to gather ideas, review technical findings, and prepare draft revisions. Prior to formal adoption or publication, UDAQ provides the affected agencies draft documents and support materials. UDAQ provides final documents and supporting information to each affected agency after approval or adoption.

UDAQ provides coordination, advice, consultation, and cooperation to EPA, FHWA, FTA, UDOT, Local Public Transit Agency, and any MPO during the development of any SIP involving mobile source emissions budgets and TCMs. UDAQ is responsible for providing technical and policy guidance to the MPOs and UDOT regarding procedures to estimate on-road vehicle emissions. In addition, UDAQ is the lead agency for maintaining the air quality-monitoring network and providing regional ambient air data in Utah. UDAQ also assists the EPA in making air quality monitoring data available to the public.

### **Metropolitan Planning Organization**

MPOs are the agencies responsible for transportation planning in established urban areas and are the conduit for various federal funds for planning and project implementation. Each MPO is responsible for developing two main products through the transportation planning process. The first is a Regional Transportation Plan (RTP) that includes improvements to highways, transit, and other transportation modes to meet the transportation needs of the area over a minimum 20-year period. The second is a Transportation Improvement Program (TIP) a capital improvement program for highway, transit, and other transportation mode projects.

Both the RTP and the TIP must conform to the goals and objectives of the CAA, identified by DAQ in the SIP. The MPO is responsible for travel demand model development (or any other analytical methods used to predict vehicle miles traveled), estimating mobile source emissions, and development of TCMs. The MPO will develop and evaluate mobile source emissions projections and ensuing mobile source emissions budgets to be included in the SIP. The MPO will develop TCMs if needed to demonstrate either attainment or maintenance of the federal NAAQS. The MPO is responsible for analyzing the mobile source emissions effects of the RTP and TIP. The MPO will make conformity determinations for RTPs and TIPs as required by the federal CAA and state law.

The MPO provides coordination, advice, consultation, and cooperation to UDAQ, UDOT, EPA, FHWA and Local Public Transit Agency during the course of the development of transportation plans, TIPs, and conformity determinations. Prior to formal adoption or publication, the MPO provides the affected agencies draft documents and support materials. The MPO provides final documents and supporting information to each affected agency after approval or adoption. Each MPO actively coordinates with the other agencies during the transportation planning process. Meetings are scheduled on a regular basis through technical and regional planning committee meetings. In addition, meetings are accommodated when necessary and when other ICT agencies request them.

#### **Utah Department of Transportation**

UDOT is responsible for serving on MPO councils and committees, reviewing the planning processes, conducting conformity determination concurrence reviews on RTPs and TIPs, and balancing local needs and preferences with the state-administered transportation system's needs. In non-attainment and maintenance areas where there is no designated MPO, UDOT is the lead transportation agency and assumes the MPO transportation planning responsibilities mentioned in this document.

#### **Utah Local Public Transit Agencies**

The local public transit agency is responsible for supporting and conducting transportation planning activities for public transportation service, and for providing transit operations to accommodate local and regional connectivity goals.

#### **Federal Highway Administration and Federal Transit Administration**

The FHWA and FTA are responsible for participating on MPO committees and task forces; reviewing the MPO transportation planning processes (which includes an annual review); providing transportation planning assistance and guidance for RTPs and TIPs; approving air quality conformity determinations; and providing notification of a pending conformity lapse.

#### **U.S. Environmental Protection Agency**

EPA is responsible for: approving updated mobile source vehicle emission models; issuing guidance on conformity criteria and procedures; providing modeling and emission inventory development assistance to UDAQ, UDOT, and the MPOs; approving mobile source emission budgets and SIP revisions (including TCMs); and reviewing and commenting on regional emissions analyses and conformity determinations for RTPs and TIPs. Where possible EPA will participate in development of and review and comment on drafts of air quality conformity analyses.



## **D. INTERAGENCY COLLABORATION**

### **Open Dialogue**

UDAQ, UDOT, the Utah local public Transit agencies and the MPO's will engage in an open dialogue through collaborative participation in the planning processes of other affected agencies. Interagency participation will strengthen the relationships between agencies by establishing each as a planning partner with an investment in the entire planning perspective.

### **SIP Development Process**

UDAQ will include the relevant MPOs and UDOT in its SIP development process from the beginning by establishing a specific workgroup for addressing any concerns of the transportation community. The purpose of this work group will be to provide a forum to build consensus; in order to achieve this goal, the work group will meet on a regular basis. Transportation agencies will also participate in the general meetings and consultations that UDAQ undertakes for all stakeholders and interested parties during SIP development.

### **Transportation Planning Process**

UDOT and the MPOs will involve UDAQ in their respective transportation planning process that produces RTPs and TIPs. The MPOs and UDOT will design transportation plans that conform to the goals and objectives of the CAA and the motor vehicle emission budgets (MVEB) specified in the SIP. UDAQ will provide an air quality perspective to the transportation planning process by participating in MPO and UDOT technical and policy meetings. This access provides UDAQ with knowledge of the specific transportation projects that are being developed from concept through construction. In developing a SIP that addresses transportation related emissions controlled by the CAA, the MPO and UDOT will assess and develop the long range mobile source budgetary needs of the urban and/or rural non-attainment area that maintain and promote the CAA goals and support the economic, demographic, and healthy quality of life in the area with consultation and cooperation of UDAQ. UDAQ will also provide consultation regarding the development of mobile source emissions budgets, but does not make transportation planning decisions. Through this cooperative planning process, UDAQ will establish the MVEBs specified in the SIP.

## **E. INTERAGENCY CONSULTATION PROCESS**

1. **Specific Processes -** The interagency consultation processes involving UDAQ, UDOT, EPA, FHWA/FTA, MPOs and Local Public Transit Agencies requires that these agencies coordinate, advise, consult, and cooperate to address the following issues: (see 40 CFR 93.105(c) for the paragraphs referenced below)
  - i. **Emissions Models and Methods -** The MPO (or UDOT, for non-attainment areas not included in an MPO) is the lead agency for developing transportation and vehicle activity assumptions to be used in transportation plans and regional air quality conformity analysis. The

MPO will develop travel characteristics with input from local jurisdictions, local public transit agency, and UDOT. The MPO (or UDOT, for non-attainment areas not included in an MPO) is responsible for mobile source emission estimates for conformity determinations using the latest motor vehicle emissions model designated or approved by EPA.

UDAQ is the lead agency for documenting meteorological conditions, fuel specifications, and I/M program settings to be used in hot spot and regional air quality conformity analysis. UDAQ will document meteorological conditions in consultation with EPA during the SIP development process. The model and guidance documents of methodologies to be used for hot spot analyses is selected by EPA in collaboration with FHWA/FTA.

- ii. **Regionally Significant Projects and Changes -** The MPO is the lead agency to identify regionally significant projects and significant changes to project design concept or scope. Through the consultation process, the ICT will make a determination of which minor arterials and other transportation projects should be considered “regionally significant” projects, and which projects may have undergone a significant change in design concept or scope since the previous TIP or RTP was approved.

As traffic conditions change in the future, the MPO’s in consultation with DAQ, UDOT, FHWA, and EPA (and Local Public Transit Agency and FTA in cases involving transit facilities) will consider 1) the relative importance of minor arterials serving major activity centers, and 2) the absence of principal arterials in the vicinity to determine if any minor arterials should be considered as regionally significant for purposes of regional emissions analysis.

Changes to regionally significant projects may or may not necessitate a new regional emissions analysis. Representatives from UDAQ, MPO’s, UDOT, Local Public Transit Agency, FHWA, FTA, and EPA will meet to develop guidelines that identify significant changes in project design and scope for regionally significant projects. Project changes not addressed by the guidelines to be developed will be decided on a case by case basis through consultation by these agencies.

- iii. **Exempt Project Emissions -** The MPO (or UDOT, for non-attainment areas not included in an MPO) is the lead agency for evaluating whether projects otherwise exempted from meeting the requirements of Title 40 Protection of Environment CFR §93.126 and §93.127 should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason.

- iv. **Transportation Control Measures Delays and Substitutes -** The MPO (or UDOT, for non-attainment areas not included in an MPO) is the lead agency for tracking the implementation of TCMs and making a determination whether past obstacles to implementation of TCMs that are behind the schedule established in the applicable SIP have been identified and are being overcome, and whether state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs. The MPO will consider whether delays in TCM implementation necessitate revisions to the applicable SIP to remove a TCM or substitute a TCM or other transportation-related emission reduction measure.
  - v. **Exempt Project Revisions -** The MPO (or UDOT, for non-attainment areas not included in an MPO) is the lead agency for notification to affected agencies of any transportation plan or TIP revisions or amendments that merely add or delete exempt projects listed in Title 40 Protection of Environment CFR §93.126 or §93.127.
  - vi. **Rural Non-attainment Areas -** UDOT is the lead agency for selecting conformity tests and methodologies required in isolated rural non-attainment and maintenance areas.
2. **Consultation: Triggers and Jurisdictions -** The interagency consultation processes involving the UDAQ, UDOT, MPOs and Local Public Transit Agencies requires that these agencies coordinate, advise, consult, and cooperate to address the following issues:
- i. **Conformity Triggers -** The MPO (or UDOT, for non-attainment areas not included in an MPO) is the lead agency responsible for determination of events that will trigger conformity determinations in addition to those identified in §93.104 *Frequency of conformity Determinations*.
  - ii. **Multiple Jurisdictions -** UDOT is the lead agency responsible for consultation on procedures for emissions analysis for transportation activities that cross the borders of MPOs or non-attainment areas or air basins.
3. **“Donut” Areas -** The MPOs and UDOT will consult in situations where the metropolitan planning area does not include the entire non-attainment or maintenance area to establish cooperative planning and analysis concerning conformity determinations of all projects in the non-attainment or maintenance area but outside the MPO planning area.

4. **Locally Funded Regionally Significant Projects -** The MPOs and UDOT will meet with local transportation planners on a monthly basis to identify all transportation projects to be included in the TIP, regardless whether the projects are federally or locally funded. The “TIP Change Process” established by UDOT and the MPOs in consultation with other ICT members will ensure that plans for construction of regionally significant projects that are not FHWA/FTA projects are disclosed to the MPOs, and ensure that any changes to those plans are immediately disclosed prior to the beginning of a conformity analysis to ensure that these projects and changes are included in the emissions analysis.
5. **Project Details -** The MPOs and UDOT will consult as needed to determine in sufficient detail the design and scope of proposed projects identified in the preceding paragraph to allow for a proper regional emissions analysis in the event that the project sponsors have not yet identified these features.
6. **Travel Model Development -** The MPOs will consult as needed on the design, schedule, funding of research and data collection efforts for regional transportation model development.
7. **Document Distribution -** The lead agencies will distribute final documents and supporting materials to all agencies identified in section **B Transportation Conformity Consultation** after approval or adoption.

## **F. DISPUTE RESOLUTION PROCESS**

As specified in Title 40 Protection of Environment CFR 93.105 *Consultation* (d) *Resolving Conflicts*, conformity related conflicts among UDAQ, UDOT, MPO, and Local Transit Agency are escalated to the Governor, or designee, if they cannot be resolved by the heads of the involved agencies. The UDAQ has 14 days to appeal to the Governor after the UDAQ has received written notice of approval of the conformity analysis by the MPO or UDOT. If UDAQ appeals to the Governor, the final conformity determination must have concurrence of the Governor.

If the UDAQ does not appeal to the Governor within 14 days of receiving written notice of approval of the conformity analysis, the MPO or UDOT may proceed with the final conformity determination. The Governor may delegate his or her role in this process, but not to any member or employee of UDAQ, Utah Air Quality Board, UDOT, State Transportation Commission, or the relevant MPO.

## **G. PUBLIC CONSULTATION PROCEDURES**

When making a conformity determination, the MPO (or UDOT, for non-attainment areas not included in an MPO) has established and will continue to implement a proactive public involvement process which provides for review and comment prior to taking formal action on a conformity determination for all transportation plans and TIPs, consistent with the requirements of Title 23 Highways CFR Part 450.316(b)

***Metropolitan transportation Planning Process: Elements***, Title 40 Protection of Environment CFR §93.112 ***Criteria and Procedures: Consultation***, and Title 49 Transportation CFR Part 7.43 ***Fee schedule***.

In addition, the MPO (or UDOT, for non-attainment areas not included in an MPO) has established and will continue to implement a proactive public involvement process. This process specifically addresses in writing all public comments that known plans for a regionally significant project which is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. These agencies shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.

## **H. CONTROL MEASURES**

As specified in Title 40 Protection of Environment CFR 93.122 (a)(4)(ii) ***Procedures for determining regional transportation-related emissions***, written commitments from the responsible agency must be obtained prior to conformity determination for any transportation control measures identified in the SIP which are not included in the MPO's transportation Plan or TIP. Written commitments, as specified in Title 40 Protection of Environment CFR 93.101 ***Definitions***, must be fulfilled and should address funding and implementation schedule issues consistent with the control measure as defined in the SIP. This provision applies to control measures not regulated by the state if these measures are used to claim emission reductions as part of the conformity determination.

## **I. PROJECT LEVEL MITIGATION MEASURES**

As specified in Title 40 Protection of Environment CFR 93.125 (c) ***Enforceability of design concept and scope and project-level mitigation and control measures***, written commitments, as specified in Title 40 Protection of Environment CFR 93.101 ***Definition***, from the project sponsor must be obtained for any transportation project level mitigation measures identified as conditions for NEPA process completion, and necessary for a positive project level conformity determination (which may include a hot-spot analysis). Project sponsors must comply with such commitments. Mitigation measures directed at reducing project related construction emissions (such as a dust control plan) but not specifically identified as necessary for a positive project level (or "Hot Spot) conformity finding, do not require written commitments.

*Replace existing text with new Transportation Conformity*

~~[UTAH STATE IMPLEMENTATION PLAN~~

~~SECTION XII~~

~~INVOLVEMENT~~

~~Adopted by the Utah Air Quality Board  
December 18, 1992~~

*Replace existing text with new Transportation Conformity*  
UTAH STATE IMPLEMENTATION PLAN

SECTION XII

INVOLVEMENT

XII.A LOCAL GOVERNMENT INVOLVEMENT

~~In accordance with Section 174, Clean Air Act, the Utah Air Conservation Committee entered into agreements with the Mountainlands Association of Governments and the Wasatch Front Regional Council which gave responsibility for development of the traffic related portions of the control strategies for carbon monoxide and photochemical oxidants which are included in this implementation plan to those government bodies.~~

~~In addition, an advisory committee comprised of representatives of each of these local government bodies and the Air Conservation Committee was established to review the proposed transportation related control strategies before these strategies were presented to each respective policy body to be adopted for inclusion in the implementation plan.~~

~~Numerous meetings of the transportation control committees of both the WFRM and MAG were held to discuss the transportation control portions of the SIP. At each of these meetings representatives of the Department of Health were present.~~

~~Several meetings were held to discuss the transportation related aspects of the plan at which representatives of WFRM, MAG, Utah Department of Transportation, EPA Federal Highway administration, Utah Department of Energy, and the Department of Health all participated. In addition, these meetings were open to the public and, although sparsely attended by the public, did afford an opportunity for involvement.~~

~~Prior to public hearing on this SIP, local government bodies throughout the state were given opportunity, through the A-95 process to review and comment on the entire contents of the plan. REPRESENTATIVES of the department of Health visited each council or association of governments and presented the contents of the plan and solicited comments.~~

XII.B PUBLIC INVOLVEMENT

~~During the development of the plan numerous meetings of the sub-committee of the Utah Air Conservation Committee were held to develop strategies and language to be contained in the plan.~~

~~Each of these meetings were advertised and open to the public. Several times throughout the course of the plan development the subcommittee requested specific input from special interest groups, government agencies, industry and others. Generally this information was presented to the committee at subcommittee meetings. In addition, the regular committee meetings at which decisions were made on adoption of specific portions of the plan were all open to the public.~~

~~The Mountainlands Association of governments and the Wasatch Front Regional Council both held public meetings or Air Quality Workshops to inform interested people of the requirements for plan~~

*Replace existing text with new Transportation Conformity*  
~~development, the status of the planning process and solicit public questions and comments.~~

~~Media coverage of the plan development was extensive.~~

~~This implementation plan was given numerous public hearings at various locations throughout the state. Numerous hearings on subsequent revisions of the plan were also held.~~

~~Notice of the public hearings was given 30 days prior to the day of the hearings and was published in all newspapers of daily circulation throughout the state and mailed as an information item to all other newspapers.~~

~~Notice of the proposed plan and rulemaking action was published in the Bulletin of the State Archivist.~~

~~Notice of the public hearing was mailed to local health departments, all persons on the mailing list maintained by the Bureau of Air Quality and to all other persons who indicated interest in the proceedings.~~

~~Copies of the proposed plan were made available at several locations throughout the state to all who desired the, In addition, the technical support documentation was made available for public inspection at the Department of Health offices in Salt lake City.~~

#### ~~XII.C STATE GOVERNMENT~~

~~During the development of the SIP many state agencies were consulted and included in discussions in the planning process.~~

~~Some of the agencies who were consulted in the planning process include: Office of the Governor, Utah Department of Transportation, Utah Energy Office, State Planning Coordinator's Office, and others.~~

~~In addition, representatives of the Department of Health have discussed the requirements for the SIP with state legislative committees.]~~



1 R307. Environmental Quality, Air Quality.

2 R307-110. General Requirements: State Implementation  
3 Plan.

4 R307-110-20. Section XII, [~~Involvement~~]Transportation  
5 Conformity Consultation.

6 The Utah State Implementation Plan, Section XII,  
7 [~~Involvement~~]Transportation Conformity, as most recently  
8 amended by the Utah Air Quality Board on [~~December 18,~~  
9 ~~1992~~]May 2, 2007, pursuant to 19-2-104, is hereby  
10 incorporated by reference and made a part of these rules.

11  
12 KEY: air pollution, PM10, PM2.5, ozone

13 [~~2006~~]2007

14 19-2-104(3)(e)

15 Notice of Continuation June 16, 2006

16  
17



State of Utah

Department of  
Environmental Quality

Dianne R. Nielson, Ph.D.  
*Executive Director*

DIVISION OF AIR QUALITY  
Richard W. Sprott  
*Director*

JON M. HUNTSMAN, JR.  
*Governor*

GARY HERBERT  
*Lieutenant Governor*

DAQ-002-07

**MEMORANDUM**

**TO:** Air Quality Board

**THROUGH:** Richard W. Sprott, Executive Secretary

**FROM:** Tim Blanchard, Minor New Source Review Section Manager

**DATE:** January 10, 2007

**SUBJECT:** FINAL ADOPTION: Amend R307-120, General Requirements: Tax Exemption for Air and Water Pollution Control Equipment.

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On December 6, 2006, the Air Quality Board proposed for comment amendments to R307-120, General Requirements: Tax Exemption for Air and Water Pollution Control Equipment. The proposed amendment removes references to water pollution control equipment and the Water Quality Board, because the Water Quality Board has proposed its own rule to address these issues. Staff from both Water Quality and Air Quality are working together to ensure that their new rule and our changes become effective on the same date.

No oral or written comments were received about this proposal.

Staff Recommendation: Staff recommends that the Board adopt R307-120 as proposed at the December Board meeting.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

AGRICULTURE AND FOOD  
PLANT INDUSTRY  
350 N REDWOOD RD  
SALT LAKE CITY UT 84116-3034, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kathleen Mathews, Seth Winterton, or Jed Christenson at the above address, by phone at 801-538-7103, 801-538-7141, or 801-538-7108, by FAX at 801-538-7126, 801-538-9436, or 801-538-7126, or by Internet E-mail at kmathews@utah.gov, sethwinterton@utah.gov, or jedchristenson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON 02/07/2007

AUTHORIZED BY: Leonard M. Blackham, Commissioner

#### **R68. Agriculture and Food, Plant Industry.**

##### **R68-20. Utah Organic Standards.**

##### **R68-20-1. Authority.**

Promulgated under authority of Sections 4-2-2(1)(j), 4-3-2, 4-4-2, 4-5-17(1), 4-9-2, 4-11-3, 4-12-5, 4-14-6(5), 4-16-3, 4-32-7(7)(a)(ii), 4-37-109(2).

A. The Utah Department of Agriculture and Food (UDAF) adopts and incorporates by reference CFR, [December 2000] June 7, 2006 edition, Title 7 Part 205, National Organic Program Final Rule[ and amendments in Title 7 Part 205.600, Subpart G, The National List of Allowed and Prohibited Substances, effective November 4, 2003].

1. UDAF will make available to all its applicants for certification and producers of organic products, copies of the National Organic Program Final Rule.

#### **KEY: inspections**

Date of Enactment or Last Substantive Amendment: ~~April 1, 2004~~ 2007

Notice of Continuation: February 4, 2005

Authorizing, and Implemented or Interpreted Law: 4-2-2(1)(j); 4-3-2; 4-4-2; 4-5-17(1); 4-9-2; 4-11-3; 4-12-3; 4-14-6(5); 4-16-3; 4-32-7(7)(a)(ii); 4-37-109(2)

## **Environmental Quality, Air Quality R307-120**

### **General Requirements: Tax Exemption for Air and Water Pollution Control Equipment**

#### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR File No.: 29327

FILED: 12/14/2006, 16:26

#### **RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendment removes references to water pollution control equipment and the Water Quality Board, because the Water Quality Board has proposed its own rule to address these issues (see separate filing on Rule R317-12 in this issue.) (DAR NOTE: The proposed new Rule R317-12 is found under DAR No. 29326 in this issue, January 1, 2007, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The Legislature provided a sales tax credit for pollution control equipment in the early 1970s. The entire program was written into Title 19, Chapter 2, the Air Conservation Act, even though it applied to water pollution controls, as well as air pollution controls. Since that time, the Division of Water Quality has administered their own pollution control credits through Rule R307-120, which is an Air Quality rule. The Division of Water Quality is writing its own rule, Rule R317-12. The two divisions are working together to remove references to water pollution and the Water Quality Board from Rule R307-120 and ensuring that the new Water Quality rule and the changes in Rule R307-120 become effective on the same date. Some grammatical corrections in Rule R307-120 also are being made now (see separate filing in this issue on Rule R317-12.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-2-124, 19-2-125, 19-2-126, and 19-2-127

#### **ANTICIPATED COST OR SAVINGS TO:**

- ❖ THE STATE BUDGET: There are no changes in cost for the Division of Air Quality, as the water quality portion of the tax credit program has always been administered by the Water Quality Board.
- ❖ LOCAL GOVERNMENTS: There are no changes in cost for local governments, as the tax credit program is not available to local governments because they pay no taxes.
- ❖ OTHER PERSONS: There are no changes in cost for other persons, as the water quality portion of the tax credit program always has been administered by the Water Quality Board.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no changes in cost for other persons, as the water quality portion of the tax credit program always has been administered by the Water Quality Board.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no change in costs or benefits for business, as the Water Quality Board has always administered its part of the tax credit program. Dianne R. Neilson, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY  
AIR QUALITY  
150 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-0085, or by Internet E-mail at janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/08/2007

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

#### **R307. Environmental Quality, Air Quality.**

#### **R307-120. General Requirements: Tax Exemption for Air [and Water] Pollution Control Equipment.**

##### **R307-120-1. Application.**

Application for certification shall be made on the form[s] provided by the [State Department of Environmental] Division of Air Quality, and shall include all information requested thereon and such additional reasonably necessary information as is requested by the executive secretary of the Air Quality Board [or the executive secretary of the Water Quality Board].

##### **R307-120-2. Eligibility for Certification.**

Certification shall be made only for taxpayers who are owners, operators (under a lease) or contract purchasers of a trade or business that utilizes Utah property with a pollution control facility to prevent or minimize air pollution.

##### **R307-120-4. Conditions for Eligibility.**

(1) All materials, equipment and structures (or part thereof) purchased, leased or otherwise procured and services utilized for construction or installation in an [water or] air pollution control facility shall be eligible for certification, provided:

(a) such materials, equipment, structures (or part thereof), and services installed, constructed, or acquired result in a demonstrated reduction of pollutant discharges or emission pollutant levels, and

(b) the primary purpose of such materials, equipment, structures (or part thereof), and services is preventing, controlling, reducing, or disposing of [water or] air pollution.

(2) The above includes expenditures [which] that reduce the amount of pollutants produced as well as expenditures [which] that result in removal of pollutants from waste streams. The materials, equipment, structures (or part thereof), and services that are necessary for the proper functioning of air [or water] pollution control facilities meeting the requirements of (1)(a) and (b) above, including equipment required for compliance monitoring, shall be eligible for certification.

##### **R307-120-5. Limitations on Certification.**

Applications for certification shall be certified by the executive secretary of the [Air Quality] Board [or the executive secretary of the Water Quality Board] after consultation with the State Tax Commission and only if:

(1) [Air Quality]

— (a) [the air pollution control facility in question has been reviewed and approved by the executive secretary of the [Air Quality] Board for those air pollution sources needing review in accordance with R307-401, or

(b) [the air pollution control facilities installed, constructed, or acquired are the result of the requirements of these rules (permits by rule) or the State Implementation Plan.]

(2) Water Quality.

— (a) [plans for the water pollution control facility in question require review and approval by the Water Quality Board and have been so approved, or

(b) [the water pollution control facility is specifically required by the Water Quality Board, including facilities constructed for pretreatment of wastes prior to discharge to a public sewerage system in accordance with R317-8-8.1, but excluding facilities which are permitted by rule under R317-6-6.2 (Ground Water Discharge Permit by Rule) unless required to obtain an individual permit by the Water Quality Board, or

(c) [the water pollution control facility is required and permitted by another statutory board within the Department of Environmental Quality, or

(d) [the water pollution control facility eliminates or reduces the discharge of pollutants which would be regulated by the Water Quality Board, if such pollutants were discharged.]

##### **R307-120-6. Exemptions from Certification.**

The following items are specifically not eligible for certification:

(1) materials and supplies used in the normal operation or maintenance of the [water or] air pollution control facilities;

(2) materials, equipment, and services used to monitor ambient air [or water], unless required for a permit or approval from the Board [a statutory board within the Department of Environmental Quality];

(3) [materials, equipment, and services for collection, treatment, and disposal of human wastes, unless the primary purpose of such materials, equipment and services is the treatment of industrial wastes;

(4) materials, equipment and services used in removal, treatment, or disposal of pollutants from contaminated ground water, if the applicant caused the ground water contamination by failing to comply with applicable permits, approvals, rules, or standards existing at the time the contamination occurred; and

(5) [air conditioners.

##### **R307-120-7. Duty to Issue Certification.**

Upon determination that facilities described in any application under R307-120-1 satisfy the requirements of these rules and Sections 19-2-123 through 19-2-127 the executive secretary of the [Air Quality] Board [or the executive secretary of the Water Quality Board] shall issue a certification of pollution control facility to the applicant.

##### **R307-120-8. Appeal and Revocation.**

(1) A decision of the executive secretary of the [Air Quality] Board may be reviewed by filing a Request for Agency Action as

provided in R307-103-3. [A decision of the executive secretary of the Water Quality Board may be reviewed by filing a Request for Agency Action as provided in the administrative rules for Water Quality, R317.]

(2) Revocation of prior certification shall be made for any of the circumstances prescribed in Section 19-2-126, after consultation with the State Tax Commission.

**KEY:** air pollution, tax exemptions, equipment[<sup>2</sup>]

**Date of Enactment or Last Substantive Amendment:** [December 7, 2000]2007

**Notice of Continuation:** March 26, 2002

**Authorizing, and Implemented or Interpreted Law:** 19-2-123, 19-2-124; 19-2-125; 19-2-126; 19-2-127

## Environmental Quality, Radiation Control

### R313-25

## License Requirements for Land Disposal of Radioactive Waste - General Provisions

### NOTICE OF PROPOSED RULE

(Amendment)

DAR File No., 29333

FILED: 12/15/2006, 10:40

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of the amendment is to change Section R313-25-1, Purpose and Scope, to "Purpose and Authority" consistent with other Division rules, and to update an incorporated Federal regulation to the current edition.

**SUMMARY OF THE RULE OR CHANGE:** The rule change modifies Section R313-25-1 to be "Purpose and Authority" consistent with other rules of the Division of Radiation Control. A change in Subsection R313-25-33(8)(a)(i) updates a Federal regulation that is incorporated by reference to the current edition.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsections 19-3-104(4), 19-3-104(8), 19-3-104(11), and 19-3-104(12)

**THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL:** Appendix G of 10 CFR 20.1001 to 20.2402 (2006)

### ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The proposed changes would not have any impact on the state budget since the changes do not modify any current requirement with a financial impact.

❖ **LOCAL GOVERNMENTS:** The proposed changes would not have any impact on any local government budget since the changes do not modify any current requirement with a financial impact.

❖ **OTHER PERSONS:** The proposed changes would not have any financial impact on other persons since the changes do not modify any current requirement with a financial impact.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons associated with the proposed rule changes since the changes do not modify any current requirement with a financial impact.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The proposed rule changes are not anticipated to have any financial impact on businesses since the changes modify the format of the affected rule and update an incorporated Federal regulation that businesses are subject to already. Dianne R. Nielson, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY  
RADIATION CONTROL

Room 212

168 N 1950 W

SALT LAKE CITY UT 84116-3085, or

at the Division of Administrative Rules.

### DIRECT QUESTIONS REGARDING THIS RULE TO:

Philip Griffin at the above address, by phone at 801-536-4261, by FAX at 801-533-4097, or by Internet E-mail at pgriffin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 03/16/2007

AUTHORIZED BY: Dane Finerfrock, Director

### R313. Environmental Quality, Radiation Control.

#### R313-25. License Requirements for Land Disposal of Radioactive Waste - General Provisions.

##### R313-25-1. Purpose and Authority[Scope].

(1) The purpose of this rule is to prescribe the requirements for the issuance of [The rules in this chapter establish procedures, criteria, and terms and conditions upon which the Executive Secretary issues] licenses for the land disposal of wastes received from other persons.

(2) The rules set forth herein are adopted pursuant to the provisions of Subsections 19-3-104(4), 19-3-104(8), 19-3-104(11), and 19-3-104(12).

(3) The requirements of R313-25 are in addition to, and not in substitution for, other applicable requirements of these rules.



State of Utah

Department of  
Environmental Quality

Dianne R. Nielson, Ph.D.  
*Executive Director*

DIVISION OF AIR QUALITY  
Richard W. Sprott  
*Director*

JON M. HUNTSMAN, JR.  
*Governor*

GARY HERBERT  
*Lieutenant Governor*

DAQ-003-07

**M E M O R A N D U M**

**TO:** Air Quality Board

**THROUGH:** Richard W. Sprott, Executive Secretary

**FROM:** Eileen Brennan, MACT Coordinator

**DATE:** January 5, 2007

**SUBJECT:** FINAL ADOPTION: Amend R307-214-2, National Emissions Standards for Hazardous Air Pollutants

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On November 1, 2006, the Air Quality Board proposed for comment amendments to R307-214-2, National Emissions Standards for Hazardous Air Pollutants. R307-214-2 was proposed for comment to incorporate by reference any updates to 40 CFR Part 63 since the last amendment of this rule.

No comments were received on this proposal during the 30-day public comment period.

Staff Recommendation: Staff recommends that the Board adopt R307-214-2 as proposed at the November 2006 Board meeting.

## Environmental Quality, Air Quality

# R307-214-2

### Part 63 Sources

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29194

FILED: 11/03/2006, 15:08

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The reason for the amendment is to update the incorporation date of 40 CFR Part 63 from July 1, 2005, to July 1, 2006. By updating this rule, the State will ensure the enforcement of the most current versions of the maximum achievable control technology (MACT), and will maintain primacy over administration of these standards on Utah sources. This will be consistent with the historical approach taken by the Department of Environmental Quality, and will simplify procedures required of sources.

**SUMMARY OF THE RULE OR CHANGE:** This amendment updates the incorporation of all changes to delegated MACT standards through the July 1, 2006, of the current Code of Federal Regulations. State operation of the MACT program is a federally required component of the Operating Permits program under Title V of the Clean Air Act. By updating this rule, the State will ensure the enforcement of the most current versions of the MACT, and will maintain primacy over administration of these standards on Utah sources. This will be consistent with the historical approach taken by the Department of Environmental Quality, and will simplify procedures required of sources.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 19-2-104(1)(a)

**THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL:** 40 CFR Part 63, July 1, 2006 ed.

#### ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There are no costs to the state budget for implementing these MACTs, as all sources are required to hold Operating Permits, and their costs are built into the fees paid by sources of Hazardous Air Pollutants under the Operating Permit Program.

❖ **LOCAL GOVERNMENTS:** No adverse economic impact is expected to occur as a result of the update of this rule, because these provisions are already federally enforceable.

❖ **OTHER PERSONS:** No adverse economic impact is expected to occur as a result of the update of this rule, because these provisions are already federally enforceable.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No adverse economic impact is expected to occur as a result of the update of this rule, because these provisions are already federally enforceable.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** No adverse economic impact is expected to occur as a result of the update of this rule, because these provisions are already federally enforceable.  
Dianne R. Nielson, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY  
AIR QUALITY  
150 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

#### DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/02/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/08/2007

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

#### **R307. Environmental Quality, Air Quality.**

#### **R307-214. National Emission Standards for Hazardous Air Pollutants.**

#### **R307-214-2. Part 63 Sources.**

The provisions listed below of 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories, effective as of July 1, [2005]2006, [~~or later for those whose subsequent publication citation is included below,~~] are incorporated into these rules by reference. References in 40 CFR Part 63 to "the Administrator" shall refer to the executive secretary, unless by federal law the authority is specific to the Administrator and cannot be delegated.

(1) 40 CFR Part 63, Subpart A, General Provisions.

(2) 40 CFR Part 63, Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance with 42 U.S.C. 7412(g) and (j).

(3) 40 CFR Part 63, Subpart F, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.

(4) 40 CFR Part 63, Subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.

(5) 40 CFR Part 63, Subpart H, National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.

(6) 40 CFR Part 63, Subpart I, National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.

(7) 40 CFR Part 63, Subpart J, National Emission Standards for Polyvinyl Chloride and Copolymers Production.

(8) 40 CFR Part 63, Subpart L, National Emission Standards for Coke Oven Batteries.

(9) 40 CFR Part 63, Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.

(10) 40 CFR Part 63, Subpart N, National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

(11) 40 CFR Part 63, Subpart O, National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations.

(12) 40 CFR Part 63, Subpart Q, National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.

(13) 40 CFR Part 63, Subpart R, National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).

(14) 40 CFR Part 63, Subpart T, National Emission Standards for Halogenated Solvent Cleaning.

(15) 40 CFR Part 63, Subpart U, National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.

(16) 40 CFR Part 63, Subpart AA, National Emission Standards for Hazardous Air Pollutants for Phosphoric Acid Manufacturing.

(17) 40 CFR Part 63, Subpart BB, National Emission Standards for Hazardous Air Pollutants for Phosphate Fertilizer Production.

(18) 40 CFR Part 63, Subpart CC, National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.

(19) 40 CFR Part 63, Subpart DD, National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.

(20) 40 CFR Part 63, Subpart EE, National Emission Standards for Magnetic Tape Manufacturing Operations.

(21) 40 CFR Part 63, Subpart GG, National Emission Standards for Aerospace Manufacturing and Rework Facilities.

(22) 40 CFR Part 63, Subpart HH, National Emission Standards for Hazardous Air Pollutants for Oil and Natural Gas Production.

(23) 40 CFR Part 63, Subpart JJ, National Emission Standards for Wood Furniture Manufacturing Operations.

(24) 40 CFR Part 63, Subpart KK, National Emission Standards for the Printing and Publishing Industry.

(25) 40 CFR Part 63, Subpart MM, National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills.

(26) 40 CFR Part 63, Subpart OO, National Emission Standards for Tanks - Level 1.

(27) 40 CFR Part 63, Subpart PP, National Emission Standards for Containers.

(28) 40 CFR Part 63, Subpart QQ, National Emission Standards for Surface Impoundments.

(29) 40 CFR Part 63, Subpart RR, National Emission Standards for Individual Drain Systems.

(30) 40 CFR Part 63, Subpart SS, National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process (Generic MACT).

(31) 40 CFR Part 63, Subpart TT, National Emission Standards for Equipment Leaks- Control Level 1 (Generic MACT).

(32) 40 CFR Part 63, Subpart UU, National Emission Standards for Equipment Leaks-Control Level 2 Standards (Generic MACT).

(33) 40 CFR Part 63, Subpart VV, National Emission Standards for Oil-Water Separators and Organic-Water Separators.

(34) 40 CFR Part 63, Subpart WW, National Emission Standards for Storage Vessels (Tanks)-Control Level 2 (Generic MACT).

(35) 40 CFR Part 63, Subpart XX, National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.

(36) 40 CFR Part 63, Subpart YY, National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic MACT.

(37) 40 CFR Part 63, Subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants.

(38) 40 CFR Part 63, Subpart DDD, National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.

(39) 40 CFR Part 63, Subpart EEE, National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.

(40) 40 CFR Part 63, Subpart GGG, National Emission Standards for Hazardous Air Pollutants for Pharmaceuticals Production.

(41) 40 CFR Part 63, Subpart HHH, National Emission Standards for Hazardous Air Pollutants for Natural Gas Transmission and Storage.

(42) 40 CFR Part 63, Subpart III, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.

(43) 40 CFR Part 63, Subpart JJJ, National Emission Standards for Hazardous Air Pollutants for Group IV Polymers and Resins.

(44) 40 CFR Part 63, Subpart LLL, National Emission Standards for Hazardous Air Pollutants for Portland Cement Manufacturing Industry.

(45) 40 CFR Part 63, Subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.

(46) 40 CFR Part 63, Subpart NNN, National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.

(47) 40 CFR Part 63, Subpart OOO, National Emission Standards for Hazardous Air Pollutants for Amino/Phenolic Resins Production (Resin III).

(48) 40 CFR Part 63, Subpart PPP, National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production.

(49) 40 CFR Part 63, Subpart QQQ, National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelters.

(50) 40 CFR Part 63, Subpart RRR, National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.

(51) 40 CFR Part 63, Subpart TTT, National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.

(52) 40 CFR Part 63, Subpart UUU, National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.

(53) 40 CFR Part 63, Subpart VVV, National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.

(54) 40 CFR Part 63, Subpart AAAA, National Emission Standards for Hazardous Air Pollutants for Municipal Solid Waste Landfills.

(55) 40 CFR Part 63, Subpart CCCC, National Emission Standards for Manufacturing of Nutritional Yeast.

(56) 40 CFR Part 63, Subpart DDDD, National Emission Standards for Hazardous Air Pollutants for Plywood and Composite Wood Products, published on July 30, 2004 at 69 FR 45943.

(57) 40 CFR Part 63, Subpart EEEE, National Emission Standards for Hazardous Air Pollutants for Organic Liquids Distribution (non-gasoline).

(58) 40 CFR Part 63, Subpart FFFF, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Organic Chemical Manufacturing.



(59) 40 CFR Part 63, Subpart GGGG, National Emission Standards for Vegetable Oil Production; Solvent Extraction.

(60) 40 CFR Part 63, Subpart HHHH - National Emission Standards for Wet-Formed Fiberglass Mat Production.

(61) 40 CFR Part 63, Subpart IIII, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Automobiles and Light-Duty Trucks.

(62) 40 CFR Part 63, Subpart JJJJ, National Emission Standards for Hazardous Air Pollutants for Paper and Other Web Surface Coating Operations.

(63) 40 CFR Part 63, Subpart KKKK, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Metal Cans.

(64) 40 CFR Part 63, Subpart MMMM, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.

(65) 40 CFR Part 63, Subpart NNNN - National Emission Standards for Large Appliances Surface Coating Operations.

(66) 40 CFR Part 63, Subpart OOOO, National Emission Standards for Hazardous Air Pollutants for Fabric Printing, Coating and Dyeing Surface Coating Operations.

(67) 40 CFR Part 63, Subpart PPPP, National Emissions Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products.

(68) 40 CFR Part 63, Subpart QQQQ, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Wood Building Products.

(69) 40 CFR Part 63, Subpart RRRR, National Emission Standards for Hazardous Air Pollutants for Metal Furniture Surface Coating Operations.

(70) 40 CFR Part 63, Subpart SSSS - National Emission Standards for Metal Coil Surface Coating Operations.

(71) 40 CFR Part 63, Subpart TTTT - National Emission Standards for Leather Tanning and Finishing Operations.

(72) 40 CFR Part 63, Subpart UUUU - National Emission Standards for Cellulose Product Manufacturing.

(73) 40 CFR Part 63, Subpart VVVV - National Emission Standards for Boat Manufacturing.

(74) 40 CFR Part 63, Subpart WWWW, National Emissions Standards for Hazardous Air Pollutants for Reinforced Plastic Composites Production.

(75) 40 CFR Part 63, Subpart XXXX - National Emission Standards for Tire Manufacturing.

(76) 40 CFR Part 63, Subpart YYYY, National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.

(77) 40 CFR Part 63, Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

(78) 40 CFR Part 63, Subpart AAAAA, National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.

(79) 40 CFR Part 63, Subpart BBBB, National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.

(80) 40 CFR Part 63, Subpart CCCCC, National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.

(81) 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters[~~published on September 13, 2004 at 69 FR 55217.~~]

(82) 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.

(83) 40 CFR Part 63, Subpart FFFFF, National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing.

(84) 40 CFR Part 63, Subpart GGGGG, National Emission Standards for Hazardous Air Pollutants for Site Remediation.

(85) 40 CFR Part 63, Subpart HHHHH, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Coating Manufacturing.

(86) 40 CFR Part 63, Subpart IIIII, National Emission Standards for Hazardous Air Pollutants for Mercury Emissions from Mercury Cell Chlor-Alkali Plants.

(87) 40 CFR Part 63, Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.

(88) 40 CFR Part 63, Subpart KKKKK, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.

(89) 40 CFR Part 63, Subpart LLLLL, National Emission Standards for Hazardous Air Pollutants for Asphalt Processing and Asphalt Roofing Manufacturing.

(90) 40 CFR Part 63, Subpart MMMMM, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Fabrication Operations.

(91) 40 CFR Part 63, Subpart NNNNN, National Emission Standards for Hazardous Air Pollutants for Hydrochloric Acid Production.

(92) 40 CFR Part 63, Subpart PPPPP, National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands.

(93) 40 CFR Part 63, Subpart QQQQQ - National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.

(94) 40 CFR Part 63, Subpart RRRRR, National Emission Standards for Hazardous Air Pollutants for Taconite Iron Ore Processing.

(95) 40 CFR Part 63, Subpart SSSSS, National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.

(96) 40 CFR Part 63, Subpart TTTTT, National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining.

**KEY: air pollution, hazardous air pollutant, MACT**

**Date of Enactment or Last Substantive Amendment:** [~~November 3, 2005~~]**2007**

**Notice of Continuation:** February 9, 2004

**Authorizing, and Implemented or Interpreted Law:** 19-2-104(1)(a)

◆ ————— ◆  
Environmental Quality, Air Quality

**R307-220**

Emission Standards: Plan for  
Designated Facilities



State of Utah

Department of  
Environmental Quality

Dianne R. Nielson, Ph.D.  
*Executive Director*

DIVISION OF AIR QUALITY  
Richard W. Sprott  
*Director*

JON M. HUNTSMAN, JR.  
*Governor*

GARY HERBERT  
*Lieutenant Governor*

DAQ-004-07

## MEMORANDUM

**TO:** Air Quality Board

**THROUGH:** Richard W. Sprott, Executive Secretary

**FROM:** Dave McNeill, SIP Section Manager

**DATE:** January 10, 2007

**SUBJECT:** FINAL ADOPTION: New State Implementation Plan Section XXII, *Interstate Transport*, and R307-110-36

---

On November 1, 2006, the Air Quality Board proposed for comment a new section R307-110-36 that incorporates by reference a new Section XXII, Interstate Transport, of the State Implementation Plan (SIP). When a new National Ambient Air Quality Standard (NAAQS) is promulgated, the Clean Air Act requires states to submit a State Implementation Plan (SIP) under section 110(a)(2)(D)(i) to address interstate transport of emissions that would affect nonattainment and maintenance areas in neighboring states. We are required to submit this SIP because new NAAQS for PM<sub>2.5</sub> and 8-hour ozone were promulgated in 1997. This proposal meets the requirements of section 110(a)(2)(D)(i) of the Clean Air Act.

No oral or written comments were received about this proposal.

Staff recommendation: Staff recommends that the Board adopt R307-110-36 and SIP Section XXII, *Interstate Transport*, as proposed at the November 2006 Board meeting.

*DRAFT*

*October 13, 2006*

# UTAH STATE IMPLEMENTATION PLAN

## SECTION XXII

### **INTERSTATE TRANSPORT**

**TO SATISFY THE REQUIREMENTS OF CLEAN AIR ACT  
110(a)(2)(D)(i)  
FOR THE 8-HOUR OZONE AND PM2.5 NAAQS  
PROMULGATED IN JULY 1997**

Adopted by the Utah Air Quality Board  
February 7, 2007

# UTAH STATE IMPLEMENTATION PLAN

## SECTION XXII

### A. Introduction

The Clean Air Act, §110(a)(2)(D)(i), requires that each state implementation plan (SIP) submitted to EPA must address emissions that affect other states through interstate transport. In addition, states must ensure that no SIP interferes with another state's program to prevent significant deterioration of its air quality, or interferes with visibility in another state. Until August 2006, there had been no EPA guidance as to the appropriate scope of such a SIP.

On April 25, 2005, in response to a lawsuit, EPA published (70 FR 21147) a finding that states had failed to submit SIPs meeting the requirements of 110(a)(2)(D)(i) within three years after EPA issued new National Ambient Air Quality Standards (NAAQS) for ozone and PM<sub>2.5</sub> in 1997. The finding requires that EPA issue a Federal Implementation Plan (FIP) for any state that does not submit a SIP and obtain EPA approval of it by May 25, 2007.

On August 15, 2006, EPA issued final guidance to states for preparation of SIPs that satisfy the 110(a)(2)(D)(i) requirements, and, on September 11, 2006, added a supplement to the guidance.

There are four components of 110(a)(2)(D)(i) that must be addressed. The first two, demonstrating adequate provisions to prevent emission from Utah from interfering with attainment or maintenance of the federal NAAQS in any other state, are discussed together in Part B below. The requirement that Utah show no interference with another state's program to prevent significant deterioration of its air quality is found in Part C below, and discussion of Utah's influence on visibility is found in Part D below.

### B. Nonattainment and Maintenance Area Impact

The "good neighbor" provisions of §110(a)(2)(D)(i) require that state SIPs prohibit

*any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will--*

*(I) contribute significantly to nonattainment in, or interference with maintenance by, any other state with respect to any such national primary or secondary ambient air quality standard...*

To demonstrate that emissions from Utah do not contribute to nonattainment or interfere with maintenance of the ozone or PM<sub>2.5</sub> standards issued in 1997, Utah relies on the modeling work conducted by EPA to determine which states should be included in the Clean Air Interstate Rule (CAIR). CAIR was proposed on January 30, 2004 at 69 FR 4566. In its CAIR proposal, EPA stated:

1        *In analyzing significant contribution to nonattainment, we determined it was reasonable*  
2        *to exclude the Western U.S., including the States of Washington, Idaho, Oregon,*  
3        *California, Nevada, Utah and Arizona from further analysis due to geography,*  
4        *meteorology, and topography. Based on these factors, we concluded that the PM 2.5 and*  
5        *8-hour ozone nonattainment problems are not likely to be affected significantly by*  
6        *pollution transported across these States' boundaries. Therefore, for the purpose of*  
7        *assessing State's contributions to nonattainment in other States, we have only analyzed*  
8        *the nonattainment counties located in the rest of the U.S.*<sup>1</sup>  
9

10       In addition, EPA addressed the modeling methodology and its determination that western states did not  
11       contribute to nonattainment or maintenance of the PM2.5 standard in other states:  
12

13       *Regarding modeling of all States, in the PM2.5 modeling for the NPRM, we modeled 41*  
14       *States, and found that the westernmost of these States made very small contributions to*  
15       *nonattainment in any other State.*<sup>2</sup> *For the revised modeling for the final rule, we*  
16       *reduced the set of States modeled [to 37 for PM] for reasons of efficiency.*<sup>3</sup> *The results*  
17       *again showed that the westernmost States modeled did not make contributions above the*  
18       *significance threshold, indicating that had other even more western States been modeled*  
19       *they also would not have done so.*<sup>4</sup>  
20

21       Based on the conclusions stated by the EPA in the above-cited guidance, the State of Utah agrees that  
22       emissions from Utah do not significantly affect nonattainment or maintenance areas in other states.  
23

## 24       **C.    Impact on PSD**

25       In § 110(a)(2)(D)(i)(II), the Clean Air Act requires that states prohibit emissions within the state from  
26       interfering "with measures required to be included in the applicable implementation plan for any other  
27       State under part C to prevent significant deterioration of air quality..."  
28

29       EPA guidance indicates that states with SIPs addressing Prevention of Significant Deterioration (PSD)  
30       and Nonattainment New Source Review (NNSR) have adequately demonstrated that they do not affect  
31       PSD implementation in other states:  
32

33       *For the 8-hour ozone standard, each State only needs to make a SIP submission that*  
34       *confirms that major sources in the State are currently subject to PSD and NNSR*  
35       *permitting programs that apply to the 8-hour ozone standard and that SIP-approved*  
36       *States are on track to meet the June 15, 2007 deadline for SIP submissions adopting the*  
37       *requirements of the Phase II ozone implementation rule.*

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<sup>1</sup> Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Interstate Air Quality Rule Preamble, 69 FR at 4581, January 30, 2004, first full paragraph, middle column.

<sup>2</sup> The 9 westernmost states that were NOT modeled for the NPRM are Idaho, Washington, Oregon, Nevada, California, Utah, Nevada, Alaska, and Hawaii.

<sup>3</sup> The additional 4 states NOT modeled for the final rule are Montana, Wyoming, Colorado, and New Mexico.

<sup>4</sup> Corrected Response To Significant Public Comments On the Proposed Clean Air Interstate Rule, March 2005, Corrected April 2005, Document ID No. EPA-HQ-2003-0053-2172, pages 200-201.

1  
2 *For the PM-2.5 standard, States need only provide a SIP submission that confirms that*  
3 *major sources in the State are subject to PSD and NNSR permitting programs*  
4 *implemented in accordance with EPA's interim guidance calling for use of PM-10 as a*  
5 *surrogate for PM-2.5 in the PSD and NNSR programs.*<sup>5</sup>  
6

7 Utah has a fully-approved PSD and NNSR program, and has successfully implemented these programs  
8 for many years. Utah's PSD SIP was revised effective June 16, 2006, to conform with the federal NSR  
9 Reform rules. These changes have been submitted to EPA but are not yet approved. Until they are, the  
10 previously-approved versions are federally enforceable. Utah will update the NNSR program when  
11 EPA's PM<sub>2.5</sub> implementation guidance is finalized. Utah will implement the current rules in accordance  
12 with EPA's interim guidance using PM<sub>10</sub> as a surrogate for PM<sub>2.5</sub> in the PSD and NNSR programs.  
13

14 Based on the conclusions stated by the EPA in the above-cited guidance, the State of Utah concludes that  
15 Utah's PSD SIP and NNSR rules ensure that Utah does not interfere with PSD implementation in other  
16 states.  
17

## 18 **D. Effects on Visibility**

19 The final requirement of § 110(a)(2)(D)(i)(II) is that states prohibit emissions within the state from  
20 interfering with the programs of other states to protect visibility. Because states are not required to  
21 submit SIPs until December 2007 to address regional haze, the transported pollution that affects visibility  
22 in federally protected areas, EPA's guidance states that:  
23

24 *EPA believes that it is currently premature to determine whether or not State SIPs for 8-*  
25 *hour ozone or PM<sub>2.5</sub> contain adequate provisions to prohibit emissions that interfere*  
26 *with measures in other States' SIPs designed to address regional haze. Accordingly, EPA*  
27 *believes that States may make a simple SIP submission confirming that it is not possible*  
28 *at this time to assess whether there is any interference with measures in the applicable*  
29 *SIP for another State designed to "protect visibility" for the 8-hour ozone and PM<sub>2.5</sub>*  
30 *NAAQS until regional haze SIPs are submitted and approved.*<sup>6</sup>  
31

32 Because Utah submitted its first Regional Haze SIP to EPA in December 2003 under 40 CFR 51.309,  
33 Utah has already demonstrated reasonable progress in reducing impacts on Class I areas on the Colorado  
34 Plateau. The 2007 SIP update will analyze any impacts from Utah that extend beyond the Colorado  
35 Plateau and determine appropriate long-term strategies for control measures.  
36

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<sup>5</sup> SIP Guidance on Section 110(a)(2)(D)(i) Findings of Failure to Submit, August 11, 2006, page 2.

<sup>6</sup> *Guidance for State Implementation plan Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards*, August 15, 2006. Pages 9-10.

C. The CVR Board shall annually determine whether a sufficient reserve exists in the Crime Victim Reparation Fund. If a sufficient reserve does not exist, the CVR Board shall not authorize the Victim Services Grant Program for that year. If a sufficient reserve does exist, the CVR Board may authorize the Victim Services Grant Program for that year.

D. When the Victim Services Grant Program is authorized, the CVR Board:

1. shall determine the amount available for the Victim Services Grant Program for that year;

2. shall announce the availability of grant funds through a request for proposals or other similar competitive process approved by the Board; and

3. may establish funding priorities and shall include any priorities in the announcement of grant funds.

E. Requests for funding shall be submitted on a form approved by the CVR Board.

F. The CVR Board shall establish a process to review requests for funding and shall make final decisions regarding the approval, modification, or denial of requests for funding. The CVR Board may award less than the amount determined in Subsection (D)(1). The decisions of the CVR Board may not be appealed.

G. All awards shall be for a period of not more than one year. An award by the CVR Board shall not constitute a commitment for funding in future years. The CVR Board may limit funding for ongoing projects.

H. Award recipients shall submit quarterly reports to the Office of Crime Victim Reparations on forms established by the Director. The CVR staff shall monitor all victim services grants and provide regular reports to the CVR Board.

**KEY:** victim compensation, victims of crimes

**Date of Enactment or Last Substantive Amendment:** [October 23, 2006] 2007

**Notice of Continuation:** July 3, 2006

**Authorizing, and Implemented or Interpreted Law:** 63-25a-401 et seq.

promulgated, the Clean Air Act requires states to submit a SIP under section 110(a)(2)(D)(i) to address interstate transport of emissions that would affect nonattainment and maintenance areas in neighboring states, as well as prevention of significant deterioration (PSD) and visibility programs. Proposed SIP XXII relies on computer modeling conducted by the Environmental Protection Agency (EPA) in developing its Clean Air Interstate Rule; the modeling indicates that emissions from seven western states including Utah do not affect nonattainment and maintenance areas for PM2.5 and ozone in other states. EPA's guidance indicates that states such as Utah with EPA-approved PSD programs do not interfere with similar programs in other states. Finally, EPA's guidance states that visibility effects are still being analyzed as part of SIPs to address regional haze that are due in December 2007, and states may indicate now that they do not know their impact on visibility.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(3)(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: State Implementation Plan Section XXII, Interstate Transport

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no change in costs for state government, because the new SIP does not add any control measures.

❖ LOCAL GOVERNMENTS: There is no change in costs for local governments, because the new SIP does not add any control measures.

❖ OTHER PERSONS: There is no change in costs for other persons, because the new SIP does not add any control measures.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no change in costs for affected persons, because the new SIP does not add any control measures.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no change in costs for state government, because the new SIP does not add any control measures. Dianne R. Nielson, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY  
AIR QUALITY  
150 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-0085, or by Internet E-mail at janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/02/2007

## Environmental Quality, Air Quality R307-110-36 Section XXII, Interstate Transport

### NOTICE OF PROPOSED RULE

(Amendment)

DAR File No.: 29227

FILED: 11/15/2006, 11:11

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add a new Subsection XXII to the State Implementation Plan (SIP) that is incorporated by reference by Rule R307-110.

SUMMARY OF THE RULE OR CHANGE: This amendment adds a new Section R307-110-36 that incorporates by reference a new Section XXII, Interstate Transport, of the SIP. When a new National Ambient Air Quality Standard (NAAQS) is

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 12/21/2006 at 1:30 PM, Division of Air Quality, 150 N 1950 W, Main Conference Room, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2007

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

### R307. Environmental Quality, Air Quality.

#### R307-110. General Requirements: State Implementation Plan.

#### R307-110-36. Section XXII, Interstate Transport.

The Utah State Implementation Plan, Section XXII, Interstate Transport, as most recently adopted by the Utah Air Quality Board on February 7, 2007, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone

Date of Enactment or Last Substantive Amendment: [December 6, 2006] 2007

Notice of Continuation: June 16, 2006

Authorizing, and Implemented or Interpreted Law: 19-2-104(3)(e)

## Environmental Quality, Air Quality

### R307-210

#### Stationary Sources

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29228

Filed: 11/15/2006, 11:11

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R307-210 incorporates by reference most of 40 CFR Part 60, federal requirements for stationary sources. The purpose of this amendment is to update Utah's rule to incorporate the latest federal requirements, and to exclude from incorporation the recent Subpart HHHH which regulates mercury emissions from electric generating units (see filings on Rules R307-220, R307-224, and R307-424). (DAR NOTE: The proposed amendment for Rule R307-220 is under DAR No. 29229, the proposed new Rule R307-224 is under DAR No. 29230, and the proposed new Rule R307-424 is under DAR No. 29231 in this issue, December 1, 2006, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This amendment adds to Rule R307-210 the incorporation of federal amendments to Part 60 that became effective between July 2005, and June 30, 2006. Affected sources are already subject to the regulations; incorporating them allows Utah to enforce these regulations as they affect sources in Utah. The alternative would be federal enforcement on Utah sources. The changes added this year are the following: 1) May 18, 2005, 70 FR 28606; 70 FR 62213, October 28, 2005; and June 9, 2006, 71

FR 33388. Electric Utility Steam Generating Units. Amend Subparts A, B, Da, HHHH, and Appendix B. (NOTE: Subpart HHHH is specifically excluded from incorporation by reference into Rule R307-210; see separate filing in this issue for Rule R307-224, where parts of Subpart HHHH are incorporated.) In these actions, the Environmental Protection Agency (EPA) finalized the Clean Air Mercury Rule (CAMR) and established standards of performance for mercury (Hg) for new and existing coal-fired electric utility steam generating units (Utility Units), as defined in Clean Air Act (CAA) section 111. The amendments to CAA section 111 rules establish a mechanism by which Hg emissions from new and existing coal-fired Utility Units are capped at specified, nation-wide levels. Allowances are readily transferable among all regulated facilities. The EPA also amended the definition of "designated pollutant" to conform to EPA's interpretation of the provisions of CAA section 111(d)(1)(A). The final rule was effective on June 9, 2006; 2) September 22, 2005, 70 FR 55568. Amend the definitions in Subpart CCCC, Commercial and Industrial Solid Waste Incinerators. (NOTE: There are no existing sources in Utah subject to this rule.) With this action, EPA promulgated revised definitions for the terms "solid waste", "commercial or industrial waste", and "commercial and industrial solid waste incineration unit". The final rule was effective September 22, 2005; 3) December 16, 2005, 70 FR 74869. Amendments to Subpart A, and add new Subparts EEEE and FFFF, Other Solid Waste Incineration Units. (NOTE: There are no existing sources in Utah subject to this rule.) EPA promulgated new source performance standards (NSPS) and emission guidelines for new and existing "other" solid waste incineration units (OSWI). The final rules address only the incineration of nonhazardous solid wastes. The rules were effective on February 14, 2006, and June 16, 2006; 4) December 16, 2005, 70 FR 74679. Correct the definition of "Annual capacity factor" in Subpart Dc, 40 CFR 60.41c, Electric Generating Units; 5) February 24, 2006, 71 FR 9453. Amend Subpart GG, Stationary Gas Turbines. Revise certain portions of the standards of performance for stationary gas turbines to clarify that EPA is not imposing new requirements for turbines constructed after 1977. Owners and operators of existing and new turbines may use monitoring that meets the pre-existing monitoring requirements. In addition, EPA described a number of acceptable compliance monitoring options that owners and operators may elect to use for these units. The rule was effective on April 25, 2006; 6) February 27, 2006, 71 FR 9865. Amendments to Subparts Da, Db, and Dc, Electric Utility Steam Generating Units. This action amends standards for performance for nitrogen oxides (NOX), sulfur dioxide (SO2), and particulate matter (PM) contained in the new source performance standards (NSPS) for electric utility steam generating units and industrial-commercial-institutional steam generating units. The rule was effective on February 27, 2006; 7) May 10, 2006, 71 FR 27324. Amend Subpart E, Large Municipal Waste Combustors. (NOTE: There are no Utah sources subject to this rule.) As part of amendments to the air emission standards for existing and new large municipal waste combustor (MWC) units, EPA revised Subpart E, applicability and designation of affected facility. The amendments to Subpart E became effective May 10, 2006; and 8) June 1, 2006, 71 FR 31100. This action





State of Utah

Department of  
Environmental Quality

Dianne R. Nielson, Ph.D.  
*Executive Director*

DIVISION OF AIR QUALITY  
Richard W. Sprott  
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*Governor*

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*Lieutenant Governor*

DAQ-005-07

## MEMORANDUM

**TO:** Air Quality Board

**THROUGH:** Richard W. Sprott, Executive Secretary

**FROM:** Mat Carlile, Environmental Planning Consultant

**DATE:** January 10, 2007

**SUBJECT:** Five-Year Reviews: R307-120, R307-130, R307-135, and R307-301.

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### Background

All state agencies are required by the Utah Administrative Rulemaking Act (Title 63, Chapter 46a) to review each of their rules at least every fifth year. Because the statute defines "agency" as the state board or other entity that is authorized by statute to make rules, the responsibility to complete the review falls to the Air Quality Board.

At the end of the review, the agency must file a notice with the Division of Administrative Rules indicating its intent to continue, amend, or repeal the rule. To continue the rule, the agency must address the requirements in 63-46a-9(3)(a) as listed on the attached forms<sup>1</sup>. If the agency does not file the form on time, the rule automatically expires, as provided in 63-46a-9(8). Nothing in the review process makes any change in the rule text; if the agency wishes to amend or repeal the rule, a separate action is required under the regular rulemaking procedures (public notice, public comment, and final Board adoption).

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<sup>1</sup> The five-year review must include all written comments received since the last review, and the interpretation of the Legislature's Administrative Rules Review Committee is that this includes all comments received during any amendment process, even though the Board has already considered all of those comments and responses. The program used by the Division of Administrative Rules to process agency submittals cannot accept any formatting characters; including tabs or hard returns; therefore, capitalizing titles and subjects is the only acceptable method to indicate separations.

The five-year reviews for the following four attached rules are due in either March or April of 2007. Also attached for your review are draft forms to be filed with the Division of Administrative Rules.

## **Rules**

### **R307-120. General Requirements: Tax Exemption for Air Pollution Control Equipment**

R307-120 sets forth conditions for eligibility for the tax exemption allowed in 19-2-124 through 19-2-127 and identifies the process to apply for certification of the exemption. It also identifies items for which exemptions are not allowed. In an earlier item in the packet, the Board is asked to adopt changes to R307-120.

### **R307-130. General Penalty Policy**

R307-130 guides the executive secretary of the Air Quality Board in determining a reasonable and appropriate penalty for violations of the rules of the Air Quality Board based on the nature and extent of the violation, the economic benefit to the sources for noncompliance, and adjustments for specific circumstances.

### **R307-135. Enforcement Response Policy for Asbestos Hazard Emergency Response Act**

R307-135 sets forth the conditions for issuance of a notice of violation and the penalties to be assessed, as set forth in 15 U.S.C. 2601 et seq.

### **R307-301. Utah and Weber Counties: Oxygenated Gasoline Program as a Contingency Measure.**

The oxygenated gasoline program is a contingency measure in case the carbon monoxide National Ambient Air Quality Standards (NAAQS) is violated in Provo or Ogden; if the standard is violated, the oxygenated gasoline program would be reinstated based on the trigger measures in State Implementation Plan (SIP) Subparts IX.C.6.e or IX C.8.f. R307-301 specifies how the oxygenated gasoline program would be conducted and enforced if it is needed.

Staff Recommendation: Staff recommends that the Board approve the attached forms to be filed with the Division of Administrative Rules.

**R307-120**

**Due:** March 26, 2007

**2. Title**

General Requirements: Tax Exemption for Air Pollution Control Equipment

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require the rule:**

Sections 19-2-124 through 19-2-127 allows sales tax exemptions for pollution control equipment meeting certain requirements set forth in the statute. R307-120 sets forth conditions for eligibility for the tax exemption and identifies the process to apply for certification of the exemption. It also identifies items for which exemptions are not allowed.

**4. A summary of written comments received during and since the last five-year review of the rule from interested persons supporting or opposing the rule:**

R307-120 has been amended once under DAR No. 29327, effective 3/01/2007, and no comments were received during the comment period. No comments have been received about this rule since its last review.

**5. A reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any:**

R307-120 sets forth conditions for eligibility for the tax exemption allowed in 19-2-124 through 19-2-127 and identifies the process to apply for certification of the exemption. It also identifies items for which exemptions are not allowed.

**6. key words:** air pollution, tax exemptions, equipment

**7. attach document.**

**Agency head or designee, and title**

**Date**

*m. Cuyler*

*1-17-07*

**R307. Environmental Quality, Air Quality.**

**R307-120. General Requirements: Tax Exemption for Air and Water Pollution Control Equipment.**

**R307-120-1. Application.**

Application for certification shall be made on forms provided by the State Department of Environmental Quality, and shall include all information requested thereon and such additional reasonably necessary information as is requested by the executive secretary of the Air Quality Board or the executive secretary of the Water Quality Board.

**R307-120-2. Eligibility for Certification.**

Certification shall be made only for taxpayers who are owners, operators (under a lease) or contract purchasers of a trade or business that utilizes Utah property with a pollution control facility to prevent or minimize pollution.

**R307-120-3. Review Period.**

Date of filing shall be date of receipt of the final item of information requested and this filing date shall initiate the 120-day review period.

**R307-120-4. Conditions for Eligibility.**

(1) All materials, equipment and structures (or part thereof) purchased, leased or otherwise procured and services utilized for construction or installation in a water or air pollution control facility shall be eligible for certification, provided:

(a) such materials, equipment, structures (or part thereof), and services installed, constructed, or acquired result in a demonstrated reduction of pollutant discharges or emission pollutant levels, and

(b) the primary purpose of such materials, equipment, structures (or part thereof), and services is preventing, controlling, reducing, or disposing of water or air pollution.

(2) The above includes expenditures which reduce the amount of pollutants produced as well as expenditures which result in removal of pollutants from waste streams. The materials, equipment, structures (or part thereof), and services that are necessary for the proper functioning of air or water pollution control facilities meeting the requirements of (1)(a) and (b) above, including equipment required for compliance monitoring, shall be eligible for certification.

**R307-120-5. Limitations on Certification.**

Applications for certification shall be certified by the executive secretary of the Air Quality Board or the executive secretary of the Water Quality Board after consultation with the State Tax Commission and only if:

(1) Air Quality.

(a) the air pollution control facility in question has been reviewed and approved by the executive secretary of the Air Quality Board for those air pollution sources needing review in accordance with R307-401, or

(b) the air pollution control facilities installed, constructed, or acquired are the result of the requirements of these rules (permits by rule) or the State Implementation Plan.

(2) Water Quality.

(a) plans for the water pollution control facility in question require review and approval by the Water Quality Board and have been so approved, or

(b) the water pollution control facility is specifically required by the Water Quality Board, including facilities constructed for pretreatment of wastes prior to discharge to a public sewerage system in accordance with R317-8-8.1, but excluding facilities which are permitted by rule under R317-6-6.2 (Ground Water Discharge Permit by Rule) unless required to obtain an individual permit by the Water Quality Board, or

(c) the water pollution control facility is required and permitted by another statutory board within the Department of Environmental Quality, or

(d) the water pollution control facility eliminates or reduces the discharge of pollutants which would be regulated by the Water Quality Board, if such pollutants were discharged.

**R307-120-6. Exemptions from Certification.**

The following items are specifically not eligible for certification:

(1) materials and supplies used in the normal operation or maintenance of the water or air pollution control facilities;

(2) materials, equipment, and services used to monitor ambient air or water, unless required for a permit or approval from a statutory board within the Department of Environmental Quality;

(3) materials, equipment, and services for collection, treatment, and disposal of human wastes, unless the primary purpose of such materials, equipment and services is the treatment of industrial wastes;

(4) materials, equipment and services used in removal, treatment, or disposal of pollutants from contaminated ground water, if the applicant caused the ground water contamination by failing to comply with applicable permits, approvals, rules, or standards existing at the time the contamination occurred; and

(5) air conditioners.

**R307-120-7. Duty to Issue Certification.**

Upon determination that facilities described in any application under R307-120-1 satisfy the requirements of these rules and Sections 19-2-123 through 19-2-127 the executive secretary of the Air Quality Board or the executive secretary of the Water Quality Board shall issue a certification of pollution control facility to the applicant.

**R307-120-8. Appeal and Revocation.**

(1) A decision of the executive secretary of the Air Quality Board may be reviewed by filing a Request for Agency Action as provided in R307-103-3. A decision of the executive secretary of the Water Quality Board may be reviewed by filing a Request for

Agency Action as provided in the administrative rules for Water Quality, R317.

(2) Revocation of prior certification shall be made for any of the circumstances prescribed in Section 19-2-126, after consultation with the State Tax Commission.

**KEY: air pollution, tax exemptions, equipment\***

**Date of Enactment or Last Substantive Amendment: December 7, 2000**

**Notice of Continuation: March 26, 2002**

**Authorizing, and Implemented or Interpreted Law: 19-2-124; 19-2-125; 19-2-126; 19-2-127**

**2. Title**

General Penalty Policy

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require the rule:**

Section 19-2-115 authorizes penalties for those found, in a civil proceeding, to violate Title 19 Chapter 2, or any rule, order, or permit issued under that chapter. R307-130 guides the executive secretary of the Air Quality Board in determining a reasonable and appropriate penalty based on the nature and extent of the violation, the economic benefit to the sources of noncompliance, and adjustments for specific circumstances.

**4. A summary of written comments received during and since the last five-year review of the rule from interested persons supporting or opposing the rule:**

No comments have been received about this rule since the last review.

**5. A reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any:**

Under section 19-2-115 a person is subject in a civil proceeding to a penalty not to exceed \$10,000 per day for each violation. R307-130 implements 19-2-115.

6. **key words:** air pollution, penalty

7. **attach document.**

**Agency head or designee, and title**

**Date**

M. Caryl Hy

1-17-07

**R307. Environmental Quality, Air Quality.**

**R307-130. General Penalty Policy.**

**R307-130-1. Scope.**

This policy provides guidance to the executive secretary of the Air Quality Board in negotiating with air pollution sources penalties for consent agreements to resolve non-compliance situations. It is designed to be used to determine a reasonable and appropriate penalty for the violations based on the nature and extent of the violations, consideration of the economic benefit to the sources of non-compliance, and adjustments for specific circumstances.

**R307-130-2. Categories.**

Violations are grouped in four general categories based on the potential for harm and the nature and extent of the violations. Penalty ranges for each category are listed.

(1) Category A. \$7,000-10,000 per day:

Violations with high potential for impact on public health and the environment including:

(a) Violation of emission standards and limitations of NESHAP.

(b) Emissions contributing to nonattainment area or PSD increment exceedences.

(c) Emissions resulting in documented public health effects and/or environmental damage.

(2) Category B. \$2,000-7,000 per day.

Violations of the Utah Air Conservation Act, applicable State and Federal regulations, and orders to include:

(a) Significant levels of emissions resulting from violations of emission limitations or other regulations which are not within Category A.

(b) Substantial non-compliance with monitoring requirements.

(c) Significant violations of approval orders, compliance orders, and consent agreements not within Category A.

(d) Significant and/or knowing violations of "notice of intent" and other notification requirements, including those of NESHAP.

(e) Violations of reporting requirements of NESHAP.

(3) Category C. Up to \$2,000 per day.

Minor violations of the Utah Air Conservation Act, applicable State and Federal Regulations and orders having no significant public health or environmental impact to include:

(a) Reporting violations

(b) Minor violations of monitoring requirements, orders and agreements

(c) Minor violations of emission limitations or other regulatory requirements.

(4) Category D. Up to \$299.00.

Violations of specific provisions of R307 which are considered minor to include:

(a) Violation of automobile emission standards and requirements

(b) Violation of wood-burning regulations by private individuals



(c) Open burning violations by private individuals.

**R307-130-3. Adjustments.**

The amount of the penalty within each category may be adjusted and/or suspended in part based upon the following factors:

(1) Good faith efforts to comply or lack of good faith. Good faith takes into account the openness in dealing with the violations, promptness in correction of problems, and the degree of cooperation with the State to include accessibility to information and the amount of State effort necessary to bring the source into compliance.

(2) Degree of wilfulness and/or negligence. In assessing wilfulness and/or negligence, factors to be considered include how much control the violator had over and the foreseeability of the events constituting the violation, whether the violator made or could have made reasonable efforts to prevent the violation, and whether the violator knew of the legal requirements which were violated.

(3) History of compliance or non-compliance. History of non-compliance includes consideration of previous violations and the resource costs to the State of past and current enforcement actions.

(4) Economic benefit of non-compliance. The amount of economic benefit to the source of non-compliance would be added to any penalty amount determined under this policy.

(5) Inability to pay. An adjustment downward may be made or a delayed payment schedule may be used based on a documented inability of the source to pay.

**R307-130-4. Options.**

Consideration may be given to suspension of monetary penalties in trade-off for expenditures resulting in additional controls and/or emissions reductions beyond those not required to meet existing requirements. Consideration may be given to an increased amount of suspended penalty as a deterrent to future violations where appropriate.

**KEY: air pollution, penalty**

**Date of Enactment or Last Substantive Amendment: September 15, 1998**

**Notice of Continuation: March 27, 2002**

**Authorizing, and Implemented or Interpreted Law: 19-2-104; 19-2-115**

**2. Title**

Enforcement Response Policy for Asbestos Hazard Emergency Response Act

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require the rule:**

Subsections 19-2-115(2)(b) and (c) authorize penalties for violations of rules adopted under Section 19-2-104 for implementation of 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response. R307-135 sets forth the conditions for issuance of a notice of violation and the penalties to be assessed.

**4. A summary of written comments received during and since the last five-year review of the rule from interested persons supporting or opposing the rule:**

No written comments have been received on this rule since its last review.

**5. A reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any:**

R307-135 sets forth the conditions for issuance of a notice of violation and the penalties to be assessed, as set forth in 15 U.S.C. 2601 et seq.

**6. key words:** air pollution, hazardous pollutant, asbestos, schools

**7. attach document.**

Agency head or designee, and title

Date

M. Cy H.

1-17-07

**R307. Environmental Quality, Air Quality.**

**R307-135. Enforcement Response Policy for Asbestos Hazard Emergency Response Act.**

**R307-135-1. AHERA Penalty Policy Definitions.**

The following additional definitions apply to R307-135:

"AHERA" means the federal Asbestos Hazard Emergency Response Act of 1986 and 40 CFR Part 763, Subpart E, Asbestos-Containing Materials in Schools.

"Local Education Agency" means:

(1) any local education agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381),

(2) the owner of any nonpublic, nonprofit elementary or secondary school building, or

(3) the governing authority of any school operated under the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

"Other Person" means any nonprofit school that does not own its own building, or any employee or designated person of a Local Education Agency who violates the AHERA regulations, or any person other than the Local Education Agency who:

(1) inspects the property of Local Education Agencies for asbestos-containing building materials for the purpose of the Local Education Agency's AHERA inspection requirements;

(2) prepares management plans for the purpose of the Local Education Agency's AHERA management plan requirements;

(3) designs or conducts response actions at Local Education Agency properties;

(4) analyzes bulk samples or air samples for the purpose of the compliance of the Local Education Agency with the AHERA requirements; or

(5) contracts with the Local Education Agency to perform any other AHERA-related function.

"Private Nonprofit School" means any nonpublic, nonprofit elementary or secondary school.

**R307-135-2. Assessing Penalties Against a Local Education Agency.**

(1) A Notice of Noncompliance may be issued to a Local Education Agency for a violation of AHERA. After a Notice of Noncompliance has been issued, the Local Education Agency must submit documentation to the executive secretary within 60 days demonstrating that the violations listed in the Notice of Noncompliance have been corrected. Failure to submit complete documentation within 60 days is a violation of this rule.

(2) A Notice of Violation may be issued to a Local Education Agency for:

(a) first-time level 1 or 2 violations as specified in R307-135-5,

(b) subsequent level 3, 4, 5, or 6 violations as specified in R307-135-5,

(c) failure to inspect and submit a management plan within 60 days of issuance of a Notice of Noncompliance,

(d) not conducting an inspection and/or submitting a plan by the statutory deadline after non-compliance has been verified by

an authorized agent of the executive secretary.

(3) In accordance with Section 19-2-115, and with Section 207(a) of AHERA, the maximum penalty that may be assessed against a Local Education Agency for any and all violations in a single school building is \$5,000 per day. Total penalties for a single school building which exceed \$5,000 per day are to be reduced to \$5,000 per day.

(4) Violations of AHERA by a Local Education Agency will be considered one-day violations, except that, in cases in which a Local Education Agency violates AHERA regulations after a Notice of Violation has been issued, additional penalties may be assessed on a per-day basis and injunctive relief may be sought.

(5) The Board may use discretion in assessing penalties. The base penalty shall be determined by assessing the circumstances and the extent of the violation, as specified in R307-135-5.

(6) In determining adjustments to a base penalty assessed against a Local Education Agency in accordance with R307-135-5, the Board may consider the culpability of the violator, including any history of non-compliance; ability to pay the penalty; ability to continue to provide educational services to the community; and the violator's good faith efforts to comply or lack of good faith.

(a) If it can be shown that the Local Education Agency did not know of its AHERA responsibilities, or if the violations are voluntarily disclosed by the Local Education Agency, or if the Local Education Agency did not have control over the violations, the penalty may be reduced by 25%.

(b) If violations are voluntarily disclosed by the Local Education Agency within 30 days of discovery, the penalty will be reduced by an additional 25%.

(c) If it can be shown that the Local Education Agency made reasonable efforts to assure compliance, the Notice of Violation may be eliminated.

(d) If the Local Education Agency has a demonstrated history of violations, the penalty may be increased.

(e) The attitude of the violator may be considered in increasing or decreasing the penalty by 15%.

(7) Civil penalties collected against a Local Education Agency shall be used by that Local Education Agency for the purposes of complying with AHERA. The executive secretary will defer payment of the penalty until the Local Education Agency has completed the requirements in the compliance schedule by the deadline in the schedule. When the compliance schedule expires, the Local Education Agency must present the executive secretary with a strict accounting of the cost of compliance in the form of notarized receipts, an independent accounting, or equivalent proof.

(8) If the cost of compliance equals or exceeds the amount of the civil penalty, the Local Education Agency will not be required to pay any money. If the cost of compliance is less than the amount of the penalty, the Local Education Agency shall pay the difference to the Asbestos Trust Fund.

### **R307-135-3. Assessing Penalties Against Other Persons.**

(1) In accordance with Section 19-2-115, the Board may assess and collect civil penalties of up to \$10,000 per day for each violation from Other Persons who violate the AHERA regulations. The penalties will be issued against the company, if there is one. Generally penalties which exceed \$10,000 per day in a single school building are to be reduced to \$10,000 per day.

(2) Criminal penalties for willful violations of up to \$25,000 may be assessed against Other Persons. All penalties assessed against Other Persons are to be sent to the Division for the State General Fund.

(3) The base penalty shall be determined by assessing the circumstances and the extent of the violation, as specified in R307-135-5.

(4) The Board may show discretion in making adjustments to the gravity-based penalty considering factors such as culpability of the Other Person, including a history of such violations; the Other Person's ability to pay; the Other Person's ability to stay in business; and other matters as justice may require, such as voluntary disclosure and attitude of the violator.

(5) The maximum penalty that may be assessed is \$10,000, per day, per violation, except that a knowing or willful violation of the regulations may be assessed at \$25,000, per day.

(6) If the Other Person continues to violate after a Notice of Violation has been issued, the Notice of Violation may be amended and additional penalties assessed. Injunctive relief, criminal penalties and per-day penalties may also be pursued.

(7) Penalties for a first-time violation may be remitted if the Other Person corrects the violations in all schools in which the Other Person has and may have violated. In some cases of unknowing violations by an Other Person who is not typically involved with asbestos, some or all of the penalty may be remitted if the Other Person takes mandatory AHERA training.

#### **R307-135-4. Penalties Against Private Nonprofit Schools.**

(1) The owner of the building that contains a private nonprofit elementary school is considered a Local Education Agency. If the private non-profit school does not own its own building, it is considered an Other Person and will be treated as such.

(2) The school is liable for up to \$5,000, per day, per violation of AHERA, and penalties may be returned to the school for the purposes of complying with AHERA. The owner of the private nonprofit school building will be assessed penalties in the same manner as other Local Education Agencies.

#### **R307-135-5. Air Quality Board AHERA Enforcement Response Policy Penalties.**

(1) Gravity Based Penalty. A base penalty based on the gravity of the violation will be determined by addressing the circumstances and the extent of the violation. Table 1 specifies penalties for Local Education agencies and Table 2 specifies penalties for Other Persons.

(2) Circumstances. The circumstances reflect the probability that harm will result from a particular violation.

The probability of harm increases as the potential for environmental harm or asbestos exposure to school children and employees increases. Tables 1 and 2 provide the following levels for measuring circumstances:

(a) Levels 1 and 2 (High): It is probable that the violation will cause harm.

(b) Levels 3 and 4 (Medium): There is a significant chance the violation will cause harm.

(c) Levels 5 and 6 (Low): There is a small chance the violation will result in harm.

(3) The circumstance levels that are to be attached for each provision of AHERA may be found in Appendix A (Local Education Agency violations) and Appendix B (Other Person violations) of EPA's AHERA Enforcement Response Policy.

(4) Extent. The extent reflects the potential harm caused by a violation. Harm is determined by the quantity of asbestos-containing building materials involved in the violation through inspection, removal, enclosure, encapsulation, or repair in violation of the regulation.

(5) For the purposes of this Enforcement Response Policy, the extent levels are specified in Tables 1 and 2 and are as follows:

(a) Major: violations involving more than 3,000 square feet or 1,000 linear feet of ACBM.

(b) Significant: violations involving more than 160 square feet or 260 linear feet but less than or equal to 3,000 square feet or 1,000 linear feet.

(c) Minor: violations involving less than or equal to 160 square feet or 260 linear feet.

(6) In situations where the quantity of asbestos involved in the AHERA violation cannot be readily determined, the base penalty will generally be calculated using the major extent category.

TABLE 1

BASE PENALTY FOR LOCAL EDUCATION AGENCIES

CIRCUMSTANCES		EXTENT		
(Levels)		A	B	C
		MAJOR	SIGNIFICANT	MINOR
High Range	1	\$5,000	\$3,400	\$1,000
	2	\$4,000	\$2,400	\$ 600
Mid Range	3	\$3,000	\$2,000	\$ 300*
	4	\$2,000	\$1,200	\$ 200*
Low Range	5	\$1,000	\$ 600	\$ 100*
	6	\$ 400*	\$ 260*	\$ 40*

\*Issue Notices of Noncompliance for the first citation of violations that fall within these cells if that is the only violation

TABLE 2

BASE PENALTY FOR OTHER PERSONS

CIRCUMSTANCES		EXTENT		
(Levels)		A	B	C
		MAJOR	SIGNIFICANT	MINOR
High Range	1	\$10,000	\$6,800	\$2,000
	2	\$ 8,000	\$4,800	\$1,200
Mid Range	3	\$ 6,000	\$4,000	\$ 600
	4	\$ 4,000	\$2,800	\$ 400
Low Range	5	\$ 2,000	\$1,200	\$ 200
	6	\$ 800	\$ 520	\$ 80

**R307-135-6. Injunctive Relief.**

(1) In accordance with Sections 19-2-116 and 117, the Board may seek injunctive relief:

(a) in cases of imminent and substantial endangerment to human health and environment;

(b) where a Local Education Agency's non-compliance will significantly undermine the intent of the AHERA regulations; and

(c) for violations including, but not limited to:

(i) failure or refusal to make a management plan available to the public without cost or restriction;

(ii) failure or refusal to conduct legally sufficient air monitoring following a response action; or

(iii) the initiation of a response action without accredited personnel; or

(d) to restrain any violation of Title 19, Chapter 2 or R307 or any final order issued by the Board, the executive secretary when it appears to be necessary for the protection of health or welfare.

**R307-135-7. Criminal Penalties.**

In accordance with Section 19-2-115, knowing, willful, or continuing violations of AHERA regulation by a Local Education Agency, Local Education Agency employee, or Other Person will be referred to the Office of the Attorney General. Knowing, willful, or continuing violations may result in the issuance of a criminal penalty of \$25,000 per day, per violation for such violations.

**KEY: air pollution, hazardous pollutant, asbestos, schools**

**Date of Enactment or Last Substantive Amendment: September 15, 1998**

**Notice of Continuation: April 22, 2002**

**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(d); 19-2-115; 19-2-116; 19-2-117**

**2. Title**

Utah and Weber Counties: Oxygenated Gasoline Program As a Contingency Measure.

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require the rule:**

Section 211(m)(1) of the Clean Air Act required Utah County to implement an oxygenated gasoline program to bring it into attainment of the carbon monoxide National Ambient Air Quality Standards. Clean Air Act Section 175A(d) requires that maintenance plans assure prompt action to correct any violation of the standard that occurs after an area is redesignated to attainment and mandatory Clean Air Act requirements such as an oxygenated fuels program must be included as contingency measures. R307-301 remains in place in case the carbon monoxide health standard is violated in Provo or Ogden; in which case, an oxygenated gasoline program could be reinstated based on the trigger measures in State Implementation Plan (SIP) Subparts IX.C.6.e(5)(a) and IX.C.8.f.

**4. A summary of written comments received during and since the last five-year review of the rule from interested persons supporting or opposing the rule:**

R307-301 was amended once under DAR No. 26897, effective 05/18/2004. The following comments were received on this amendment: COMMENT 1: It seems to me that in order to make an educated decision, citizens need to be able to see what they are trading for approximately \$5 per winter. I believe that appreciable differences in air quality are worth much more than \$5/person each winter. (Myles Watson) *STAFF RESPONSE*: DAQ staff agrees. However, the difference is not appreciable. Carbon monoxide levels are approximately 4% lower with oxygenated gasoline, but that percentage is declining each year as more vehicles with advanced technology replace older vehicles. Projections for the future show that the federal health standard will be maintained without oxygenated gasoline for at least the next 10 years. The health standard is set at a level to protect public health. Thus, no health benefits are lost by ending use of oxygenated gasoline. COMMENT 2: ConocoPhillips is directly impacted by the current oxygenated gasoline requirements and the proposed changes. ConocoPhillips supports the State's request that EPA approve a new attainment demonstration and maintenance plan for Provo and redesignate Provo to attainment status for carbon monoxide. Removing the wintertime oxygenate requirement will give fuel suppliers additional flexibility which we all support. (letter, H. Daniel Sinks, Fuel Issues Advisor, ConocoPhillips) *STAFF RESPONSE*: Noted. COMMENT 3: Highland City wishes to express its support for the current action under consideration. With the proximity to Salt Lake County, it seems of dubious value to have a different kind of gas. As it appears that the air quality has improved it is time to make these changes. Our residents are excited about these changes and are encouraged that they may be coming sooner rather than later. (letter, Barry Edwards, City Administrator, Highland City) *STAFF RESPONSE*: Noted. COMMENT 4: Mountainland AOG is pleased with the progress of the redesignation request and Maintenance Plan and we look forward to the elimination of the oxyfuel provision for the next fall/winter season starting November



2004. We would like to thank the Division for the positive cooperation demonstrated throughout the preparation of this Plan and in particular we thank Bill Colbert for his personal helpfulness and professional coordination. (Susan Hardy, Air Quality Program Manager, Mountainland Association of Governments) STAFF RESPONSE: Noted. COMMENT 5: The member companies of the Utah Petroleum Association strongly support the Provo carbon monoxide plan and the deletion of the requirement for use of oxygenated gasoline in Utah County. Oxygenated fuels have served a valid purpose, but eliminating them will be a welcome relief to the petroleum industry. The inconvenience and added expense of producing and dispensing oxyfuel each winter has been a continuing concern for our industry. Our industry is proud to be a positive contributor in Utah's efforts to improve and maintain air quality. (Lee Peacock, president, Utah Petroleum Association) STAFF RESPONSE: Noted. COMMENT 6: With respect to the revised version of R307-301 "Utah and Weber Counties: Oxygenated Gasoline Program as a Contingency Measure" we are unsure of the State's intention. From EPA's perspective, this specific contingency measure rule language does not have to be adopted at this time for the maintenance plan. If the State decides to have the UAQB adopt this language, this revision does not need to be submitted to EPA. (letter, Richard Long, EPA Region 8) STAFF RESPONSE: Agree. In fact, there is no longer a need for the rule to be federally-enforceable at all. The letter to EPA requesting redesignation also will request that R307-301 be removed from the federally-enforceable SIP. OTHER COMMENTERS: Rep. David Cox, Lehi; AB Fredericks, Woodland Hills; Paul Jensen, Spanish Fork; Nellie Motes, Provo; Mrs. Paulsen, Payson; Kathy Jackson, Provo; Mr and Mrs Warren Johnson; Spanish Fork; Virl C Long, Provo; Jay Allen, American Fork; Terry Fredericks, Spanish Fork; J.J. Bird, Springville; R. Holley, Springville: The above commenters favored ending the oxygenated gasoline program, and expressed similar reasons, which are: 1) oxyfuel causes poor vehicle performance and reduces gas mileage; 2) oxyfuel doesn't really help the air quality; 3) it's unfair that other areas don't have to use oxyfuel as well as Utah County; 4) our smog blows in from Salt Lake; 5) it doesn't help here because so many people buy gas outside Utah County; and 6) it's harmful to human health. STAFF RESPONSE: If this Plan is adopted, use of oxygenated gasoline in Utah County will end, unless carbon monoxide levels again exceed the federal health standard. No other written comments were received about this rule since its last review.

**5. A reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any:**

Section 211(m)(1) of the Clean Air Act required Utah County to implement a oxygenated gasoline program to bring it into attainment of the carbon monoxide National Ambient Air Quality Standards. Clean Air Act Section 175A(d) requires that maintenance plans assure prompt action to correct any violation of the standard that occurs after an area is redesignated to attainment and mandatory Clean Air Act requirements must be included as contingency measures. The oxygenated gasoline program is a contingency measure in case the carbon monoxide National Ambient Air Quality Standards (NAAQS) is violated in Provo or Ogden.

**6. key words:** air pollution control, motor vehicles, gasoline, petroleum

7. attach document.

Agency head or designee, and title

Date

M. C. King

1-17-07

**R307. Environmental Quality, Air Quality.**

**R307-301. Utah and Weber Counties: Oxygenated Gasoline Program As a Contingency Measure.**

**R307-301-1. Definitions.**

The following additional definitions apply to R307-301.

"Averaging period" is the control period and means the period of time over which all gasoline sold or dispensed for use in a control area by any control area responsible party or blender control area responsible party must comply with the average oxygen content standard.

"Blender control area responsible party (blender CAR)" means a person who owns oxygenated gasoline which is sold or dispensed from a control area oxygenate blending installation.

"Blending Allowance" means the amount of oxygen a gasoline blend is allowed above its upper oxygen content limit. Any gasoline blended under the provisions of 42 U.S.C. 7545(f)(1) addressing substantially similar fuels are permitted a blending allowance of 0.2% oxygen by weight. Blending allowances are not given to gasoline blends granted a waiver by the Administrator under 42 U.S.C. 7545(f)(4).

"Carrier" means any person who transports, stores or causes the transportation or storage of gasoline at any point in the gasoline distribution network, without taking title to or otherwise having ownership of the gasoline, and without altering the quality or quantity of the gasoline.

"Control area" means a geographic area in which only gasoline under the oxygenated gasoline program may be sold or dispensed during the control period.

"Control area oxygenate blending installation" means any installation or truck at which oxygenate is added to gasoline or gasoline blendstock which is intended for use in any control area, and at which the quality or quantity of the gasoline or gasoline blendstock is not otherwise altered, except through the addition of deposit-control additives.

"Control area responsible party (CAR)" means a person who owns oxygenated gasoline which is sold or dispensed from a control area terminal.

"Control area terminal" means either a terminal which is capable of receiving gasoline in bulk, i.e., by pipeline, marine vessel or barge, or a terminal at which gasoline is altered either in quantity or quality, excluding the addition of deposit control additives, or both. Gasoline which is intended for use in any control area is sold or dispensed into trucks at these control area terminals.

"Control period" means November 1 through the last day of February, during which time only oxygenated gasoline may be sold and dispensed in any control area.

"Distributor" means any person who transports or stores or causes the transportation or storage of gasoline at any point between any gasoline refiner's installation and any retail outlet or wholesale purchaser-consumer's installation. A distributor is a blender CAR if the distributor alters the oxygen content of gasoline intended for use in any control area through the addition of one or more oxygenates, or lowers its oxygen content below the

minimum oxygen content specified in R307-301-6.

"Gasoline" means any fuel sold for use in motor vehicles and motor vehicle engines, and commonly or commercially known or sold as gasoline.

"Gasoline blendstock" means a hydrocarbon material which by itself does not meet specifications for finished gasoline, but which can be blended with other components, including oxygenates, to produce a blended gasoline fully meeting the American Society for Testing and Materials (ASTM) or state specifications.

"Non-oxygenated gasoline" means any gasoline which does not meet the definition of oxygenated gasoline.

"Oxygen content of gasoline blends" means percentage of oxygen by weight contained in a gasoline blend, based upon the percent by volume of each type of oxygenate contained in the gasoline blend, excluding denaturants and other non-oxygen-containing compounds. All measurements shall be adjusted to 60 degrees Fahrenheit.

"Oxygenate" means any substance, which when added to gasoline, increases the amount of oxygen in that gasoline blend. Lawful use of any combination of these substances requires that they be substantially similar as provided for under 42 U.S.C. 7545(f)(1), or be permitted under a waiver granted by the Administrator of the Environmental Protection Agency under the authority of 42 U.S.C. 7545(f)(4).

"Oxygenate blender" means a person who owns, leases, operates, controls, or supervises a control area oxygenate blending installation.

"Oxygenated gasoline" means any gasoline which contains at least 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1%, that was produced through the addition of one or more oxygenates to a gasoline and has been included in the oxygenated gasoline program accounting by a control area responsible party or blender control area responsible party and which is intended to be sold or dispensed for use in any control area. Notwithstanding the foregoing, if the Board determines that the requirement of 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1%, will prevent or interfere with attainment of the  $PM_{10}$  National Ambient Air Quality Standard and the State requests and is granted a waiver from the Administrator of the Environmental Protection Agency under 42 U.S.C. 7545, the waiver amount granted by the Administrator of the Environmental Protection Agency shall apply.

Oxygenated gasoline containing lead is required to conform to the same waiver conditions or substantially similar ruling as unleaded gasoline as described in the definition of oxygenate.

"Refiner" means any person who owns, leases, operates, controls, or supervises a refinery which produces gasoline for use in a control area during the applicable control period.

"Refinery" means a plant at which gasoline is produced.

"Reseller" means any person who purchases gasoline and resells or transfers it to a retailer or a wholesale purchaser-consumer.

"Retail outlet" means any establishment at which gasoline is sold or offered for sale to the ultimate consumer for use in motor

vehicles.

"Retailer" means any person who owns, leases, operates, controls, or supervises a retail outlet.

"Terminal" means an installation at which gasoline is sold, or dispensed into trucks for transportation to retail outlets or wholesale purchaser-consumer installations.

"Trigger date" means the date on which is triggered the Contingency Action Level specified in Section IX.C.8.h or IX.C.6.e of the state implementation plan.

"Wholesale purchaser-consumer" means any organization that:

(1) is an ultimate consumer of gasoline;

(2) purchases or obtains gasoline from a supplier for use in motor vehicles; and

(3) receives delivery of that product into a storage tank of at least 550-gallon capacity substantially under the control of that organization.

"Working day" means Monday through Friday, excluding observed federal and Utah state holidays.

#### **R307-301-2. Applicability and Control Period Start Dates.**

(1) Unless waived under authority of 42 U.S.C. 7545(m)(3) by the Administrator of the Environmental Protection Agency, R307-301 is applicable in Utah and Weber Counties.

(2) The first control period for areas for which R307-301 is applicable begins on November 1 following the trigger date for the county in which it has been triggered.

#### **R307-301-3. Average Oxygen Content Standard.**

(1) All gasoline sold or dispensed during the control period, for use in each control area, by each CAR or blender CAR as defined in R307-301-1, shall be blended for each averaging period to contain an average oxygen content of not less than 2.7% oxygen by weight.

(2) The averaging period over which all gasoline sold or dispensed in the control area is to be averaged shall be equal to the control period.

(3) All gasoline, both leaded and unleaded, shall be blended in compliance with 40 CFR Part 79 (1991) - Registration of Fuels and Fuel Additives and 40 CFR Part 80 (1991) - Regulation of Fuels and Fuel Additives.

(4) Any gasoline blended under 42 U.S.C. 7545(f)(1) dealing with substantially similar fuels must be blended in compliance with the criteria specified in the substantially similar ruling. Any extra volume of oxygenate or oxygenates added to gasoline blended under a substantially similar ruling as provided for under 42 U.S.C. 7545(f)(1) in excess of the criteria specified in 42 U.S.C. 7545(f)(1) may not be included in the compliance calculations specified in R307-301-5(2) and (3).

(5) Any gasoline blended under a waiver granted by the Environmental Protection Agency under the provisions of 42 U.S.C. 7545(f)(4) must be blended in compliance with the criteria specified in the appropriate waiver. Gasoline blends waived to oxygen content above 2.7% oxygen by weight are not permitted a blending allowance for blending tolerance purposes. Any extra

volume of oxygenate in excess of the criteria specified in the appropriate waiver may not be included in the compliance calculations specified in R307-301-5(2) or (3).

(6) Oxygen content shall be determined in accordance with R307-301-4.

**R307-301-4. Sampling, Testing, and Oxygen Content Calculations.**

(1) For the purpose of determining compliance with the requirements of R307-301, the oxygen content of gasoline shall be determined by one or both of the two following methods.

(a) Volumetric Method. Oxygen content may be calculated by the volumetric method specified in the Environmental Protection Agency Guidelines for Oxygenated Gasoline Credit Programs under Section 211(m) of the Clean Air Act as Amended - Supplementary Information - Oxygen Content Conversions, published in the Federal Register on October 20, 1992.

(b) Chemical Analysis Method.

(i) Use the sampling methodologies detailed in 40 CFR Part 80 (1993), Appendix D, to obtain a representative sample of the gasoline to be tested;

(ii) Determine the oxygenate content of the sample by use of:

(A) the test method specified in ASTM Designation D4815-93, Testing Procedures--Method--ASTM Standard Test Method for Determination of C1 to C4 Alcohols and MTBE in Gasoline by Gas Chromatography,

(B) the test method specified in Appendix C of Environmental Protection Agency Guidelines for Oxygenated Gasoline Credit Programs under Section 211(m) of the Clean Air Act as Amended - Test Procedure Test for the Determination of Oxygenates in Gasoline as published in the Federal Register on October 20, 1992, or

(C) an alternative test method approved by the executive secretary.

(iii). Calculate the oxygen content of the gasoline sampled by multiplying the mass concentration of each oxygenate in the gasoline sampled by the oxygen molecular weight contribution of the oxygenate set forth in (3) below.

(2) All volume measurements required in R307-301-4 shall be adjusted to 60 degrees Fahrenheit.

(3) For the purposes of R307-301, the oxygen molecular weight contributions and specific gravities of oxygenates currently approved for use in the United States by the U.S. Environmental Protection Agency are the following:

TABLE

Specific Gravity and Weight Percent Oxygen of Common Oxygenates

oxygenate	weight fraction	specific gravity
	oxygen	at 60 degrees F
ethyl alcohol	0.3473	0.7939
normal propyl alcohol	0.2662	0.8080
isopropyl alcohol	0.2662	0.7899

normal butyl alcohol	0.2158	0.8137
isobutyl alcohol	0.2158	0.8058
secondary butyl alcohol	0.2158	0.8114
tertiary butyl alcohol	0.2158	0.7922
methyl tertiary-butyl ether (MTBE)	0.1815	0.7460
tertiary amyl methyl ether (TAME)	0.1566	0.7752
ethyl tertiary-butyl ether (ETBE)	0.1566	0.7452

(4) Sampling, testing, and oxygen content calculation records shall be maintained for not less than two years after the end of each control period for which the information is required.

(5) Every refiner must determine the oxygen content of all gasoline produced for use in a control area by use of the methodology specified in (1) above. Documentation shall include the percent oxygen by weight, each type of oxygenate, the purity of each oxygenate, and the percent oxygenate by volume for each oxygenate. If a CAR or blender CAR alters the oxygen content of a gasoline intended for use within a control area during a control period, the CAR or blender CAR must determine the oxygen content of the gasoline by use of the methodology specified in (1) above.

#### **R307-301-5. Alternative Compliance Options.**

(1) Each CAR or blender CAR shall comply with the standard specified in R307-301-3 by means of the method set forth in either (2) or (3) below and shall specify which option will be used at the time of the registration required under R307-301-7.

(2) Compliance calculation on average basis.

(a) The CAR or blender CAR shall determine compliance with the standard specified in R307-301-3 for each averaging period and for each control area by:

(i) Calculating the total volume of gasoline labeled as oxygenated that is sold or dispensed, not including volume dispensed or sold to another CAR or blender CAR, for use in the control area which is the sum of:

(A) the volume of each separate batch or truckload of gasoline labeled as oxygenated that is sold or dispensed;

(B) minus the volume of each separate batch or truckload of gasoline labeled as oxygenated that is sold or dispensed for use in a different control area;

(C) minus the volume of each separate batch or truckload of gasoline labeled as oxygenated that is sold or dispensed for use in any non-control area.

(ii) Calculating the required total oxygen credit units. Multiply the total volume in gallons of gasoline labeled as oxygenated that is sold or dispensed for use in the control area, as determined by (i) above, by the oxygen content standard specified in R307-301-3(1).

(iii) Calculating the actual total oxygen credit units generated. The actual total oxygen credit units generated is the sum of the volume of each batch or truckload of gasoline labeled as oxygenated that was sold or dispensed for use in the control area as determined by (i) above, multiplied by the actual oxygen content by weight percent associated with each batch or truckload.

If a batch or truckload of gasoline is blended under the

substantially similar provisions of 42 U.S.C. 7545(f)(1) or under a waiver granted by the Environmental Protection Agency under the provisions of 42 U.S.C. 7545(f)(4), any extra volume of oxygenate in excess of the substantially similar criteria including the blending tolerance of 0.2% oxygen by weight, or in excess of the appropriate waiver, cannot be included in the calculation of oxygen credit units.

(iv) Calculating the adjusted actual total oxygen credit units. The adjusted actual total oxygen content units is the sum of the actual total oxygen credit units generated, as determined by (iii) above;

(A) plus the total oxygen credit units purchased, acquired through trade and received; and

(B) minus the total oxygen credit units sold, given away and provided through trade.

(v) Comparing the adjusted actual total oxygen credit units with the required total oxygen credit units. If the adjusted actual total content oxygen credit units is greater than or equal to the required total oxygen credit units, then the standard in R307-301-3 is met. If the adjusted actual total oxygen credit units is less than the required total oxygen credit units, then the purchase of oxygen credit units is required in order to achieve compliance.

(vi) In transferring oxygen credit units, the transferor shall provide the transferee with information as to how the credits were calculated, including the volume and oxygen content by weight percent of the gasoline associated with the credits.

(b) To determine the oxygen credit units associated with each batch or truck load of oxygenated gasoline sold or dispensed into the control area, use the running weighted oxygen content (RWOC) of the tank from which and at the time the batch or truckload was received (see (c) below). In the case of batches or truckloads of gasoline to which oxygenate was added outside of the terminal storage tank from which it was received, use the weighted average of the RWOC and the oxygen content added as a result of the volume of the additional oxygenate added.

(c) Running weighted oxygen content. The RWOC accounts for the volume and oxygen content of all gasoline, including transfers to or from another CAR or blender CAR, which enters or leaves a terminal storage tank, and the oxygen contribution of all oxygenates which are added to the tank. The RWOC must be calculated each time gasoline enters or leaves the tank or whenever oxygenates are added to the tank. The RWOC is calculated weighing the following:

(i) the volume and oxygen content by weight percent of the gasoline in the storage tank at the beginning of the averaging period;

(ii) the volume and oxygen content by weight percent of gasoline entering the storage tank;

(iii) the volume and oxygen content by weight percent of gasoline leaving the storage tank; and

(iv) the volume, type, purity and oxygen content by weight percent of the oxygenates added to the storage tank.

(d) Credit transfers. Credits may be used in the compliance



calculation in (2)(a)(i) above, provided that:

(i) the credits are generated in the same control area as they are used, i.e., no credits may be transferred between nonattainment areas;

(ii) the credits are generated in the same averaging period as they are used;

(iii) the ownership of credits is transferred only between CARs or blender CARs registered under the averaging compliance option specified in R307-301-7;

(iv) the credit transfer agreement is made no later than 30 working days, as defined in R307-301-1, after the final day of the averaging period in which the credits are generated; and

(v) the credits are properly created.

(e) Improperly created credits.

(i) No party may transfer any credits to the extent such a transfer would result in the transferor having a negative credit balance at the conclusion of the averaging period for which the credits were transferred. Any credits transferred in violation of this paragraph are improperly created credits.

(ii) Improperly created credits may not be used, regardless of a credit transferee's good faith belief that the transferee was receiving valid credits.

(3) Compliance calculation on a per gallon basis. Each gallon of gasoline sold or dispensed by a CAR or blender CAR for use within each control area during the averaging period as defined in R307-301-1 shall have an oxygen content of at least the average oxygen content standard specified in R307-301-3(1). The maximum oxygen content which may be used to calculate compliance is the average oxygen content standard specified in R307-301-3. In addition, the CAR or blender CAR is prohibited from selling, trading or providing oxygen credits based on gasoline for which compliance is calculated under this alternative per-gallon method.

#### **R307-301-6. Minimum Oxygen Content.**

(1) Any gasoline which is sold or dispensed by a CAR, blender CAR, carrier, distributor, or reseller for use within a control area, as defined in R307-301-1, during the control period, shall contain not less than 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1%, unless it is sold or dispensed to another registered CAR or blender CAR.

This requirement shall begin five working days, as defined in R307-301-1, before the applicable control period and shall apply until the end of that period.

(2) This requirement shall apply to all parties downstream of the CAR or blender CAR unless the gasoline will be sold or dispensed to another CAR or blender CAR. Any gasoline which is offered for sale, sold or dispensed to an ultimate consumer within a control area during a control period, as defined in R307-301-1, shall not contain less than 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1%. This requirement shall apply during the entire applicable control period.

(3) Every refiner must determine the oxygen content of all gasoline produced by use of the methodologies described in R307-

301-4. This determination shall include the oxygen content by weight percent, each type of oxygenate, and percent oxygenate by volume for each type of oxygenate.

(4) Any gasoline sold or dispensed by a CAR or blender CAR for use within a control area and for which compliance is demonstrated using the method specified in (3) shall contain not less than the average oxygen content standard specified in R307-301-3(1), unless the gasoline is sold or dispensed to another registered CAR or blender CAR.

#### **R307-301-7. Registration.**

(1) All persons who sell or dispense gasoline directly or indirectly to persons who sell or dispense to ultimate consumers in a control area during a control period, including CARs, blender CARs, carriers, resellers, and distributors, shall petition the executive secretary for registration not less than one calendar month in advance of such sales or transfers of gasoline into the control area during the control period.

(2) This petition for registration shall be on forms prescribed by the executive secretary and shall include the following information:

(a) the name and business address of the CAR, blender CAR, carrier, reseller, or distributor;

(b) in the case of a CAR, the address and physical location of each of the control area terminals from which the CAR operates;

(c) in the case of a blender CAR, the address and physical location of each control area oxygenate blending installation which is owned, leased, operated, or controlled, or supervised by a blender CAR;

(d) in the case of a carrier, distributor, or reseller, the names and addresses of retailers they supply;

(e) the address and physical location where documents which are required to be retained by R307-301 shall be kept; and

(f) in the case of a CAR or blender CAR, the compliance option chosen under provisions of R307-301-5 and a list of oxygenates which will be used.

(3) If the registration information previously supplied by a registered party under the provisions of (2)(a) through (e) becomes incomplete or inaccurate, that party shall submit updated registration information to the executive secretary within 15 working days as defined in R307-301-1. If the information required under (2)(f) is to change, the updated registration information must be submitted to the executive secretary before the change is made.

(4) No person shall participate in the oxygenated gasoline program as a CAR, blender CAR, carrier, reseller, or distributor until such person has been notified by the executive secretary that such person has been registered as a CAR, blender CAR, carrier, reseller, or distributor. Registration shall be valid for the time period specified by the executive secretary. The executive secretary shall issue each CAR, blender CAR, carrier, reseller, or distributor a unique identification number within one calendar month of the petition for registration.

### **R307-301-8. Recordkeeping.**

(1) Records. All parties in the gasoline distribution network, as described below, shall maintain records containing compliance information enumerated or described below. These records shall be retained by the regulated parties for a period of two years after the end of each control period for which the information is required.

(a) Refiners. Refiners shall, for each separate quantity of gasoline produced or imported for use in a control area during a control period, maintain records containing the following information:

- (i) results of the tests utilized to determine the types of oxygenates and percent by volume;
- (ii) percent oxygenate content by volume of each oxygenate;
- (iii) oxygen content by weight percent;
- (iv) purity of each oxygenate;
- (v) total volume of gasoline; and
- (vi) the name and address of the party to whom each separate quantity of oxygenated gasoline was sold or transferred.

(b) Control area terminal operators. Persons who own, lease, operate or control gasoline terminals which serve control areas, or any truck- or terminal-lessee who subleases any portion of a leased tank or terminal to other persons, shall maintain a copy of the transfer document for each batch or truckload of gasoline received, purchased, sold or dispensed, and shall maintain records containing the following information:

- (i) the owner of each batch of gasoline handled by each regulated installation if known, or the storage customer of record;
- (ii) volume of each batch or truckload of gasoline going into or out of the terminal;
- (iii) for all batches or truckloads of gasoline leaving the terminal, the RWOC of the batch or truckload;
- (iv) for each oxygenate, the type of oxygenate, purity if available, and percent oxygenate by volume;
- (v) oxygen content by weight percent of all batches or truckloads received at the terminal;
- (vi) destination county of each tank truck sale or batch of gasoline as declared by the purchaser of the gasoline, if the destination is within Utah or Weber County;
- (vii) the name and address of the party to whom the gasoline was sold or transferred and the date of the sale or transfer, and
- (viii) the results of the tests for oxygenates, if performed, of each sale or transfer, and who performed the tests.

(c) CARs and blender CARs. Each CAR must maintain records containing the information listed in (b) above. Each CAR and blender CAR must maintain a copy of the transfer document for each shipment of gasoline received, purchased, sold or dispensed, as well as the records containing the following information:

- (i) CAR or blender CAR identification number;
- (ii) the name and address of the person from whom each shipment of gasoline was received, and the date when it was received;
- (iii) data on each shipment of gasoline received, including:

- (A) the volume of each shipment;
- (B) type of oxygenate or oxygenates, and percentage by volume; and
- (C) oxygen content by weight percent;
- (iv) the volume of each receipt of bulk oxygenates;
- (v) the name and address of the parties from whom bulk oxygenate was received;
- (vi) the date and destination county of each sale of gasoline, if the destination is within Utah or Weber County;
- (vii) data on each shipment of gasoline sold or dispensed including:
  - (A) the volume of each shipment;
  - (B) type of each oxygenate, and percent by volume for each oxygenate, and
  - (C) oxygen content by weight percent;
  - (viii) documentation of the results of all tests done regarding the oxygen content of gasoline;
  - (ix) the names, addresses and CAR or blender CAR identification numbers of the parties to whom any gasoline was sold or dispensed, and the dates of these transactions; and
  - (x) in the case of CARs or blender CARs that elect to comply with the average oxygen content standard specified in R307-301-3 by means of the compliance option specified in R307-301-5(2) must also maintain records containing the following information:
    - (A) records supporting and demonstrating compliance with the averaging standard specified in R307-301-3; and
    - (B) for any credits bought, sold, traded, or transferred, the dates of the transactions, the names, addresses and CAR or blender CAR identification numbers of the CARs and blender CARs involved in the individual transactions, and the amount of credits transferred. Any credits transferred must be accompanied by a demonstration of how those credits were calculated. Adequate documentation that both parties have agreed to all credit transfers within 30 working days, as defined in R307-301-1, following the close of the averaging period must be included.
- (d) Retailers and wholesale purchaser-consumers within a control area must maintain the following records:
  - (i) the names, addresses and CAR, blender CAR, carrier, distributor, or reseller identification numbers of the parties from whom all shipments of gasoline were purchased or received, and the dates when they were received and for each shipment of gasoline bought, sold or transported:
    - (A) the transfer document as specified in R307-301-8(3) and
    - (B) a copy of each contract for delivery of oxygenated gasoline and
  - (ii) data on every shipment of gasoline bought, sold or transported, including:
    - (A) volume of each shipment;
    - (B) for each oxygenate, the type, percent by volume and purity (if available);
    - (C) oxygen content by weight percent; and
    - (D) destination county of each sale or shipment of gasoline, if the destination is within Utah or Weber County; and
  - (iii) the name and telephone number of the person

responsible for maintaining the records and the address where the records are located, if the location of the records is different from the station or outlet location.

(e) Carriers, distributors, resellers, terminal operators, and oxygenate blenders must keep a copy of the transfer document for each truckload or shipment of gasoline received, obtained, purchased, sold or dispensed.

#### **R307-301-9. Reports.**

(1) Each CAR or blender CAR that elects to comply with the average oxygen content standard specified in R307-301-3 by the compliance option specified in R307-301-5(2) shall submit a report to the executive secretary for each control period for each control area as defined in R307-301-1 reflecting the compliance information detailed in R307-301-5(2).

(2) Each CAR or blender CAR that elects to comply with the average oxygen content standard specified in R307-301-3 shall submit a report to the executive secretary for each control period for each control area as defined in R307-301-1 reflecting the compliance information detailed in R307-301-5(3), including the volume of oxygenated gasoline sold or dispensed into each control area during the control period.

(3) The report is due 30 working days, as defined in R307-301-1, after the last day of the control period for which the information is required. The report shall be filed using forms provided by the executive secretary.

#### **R307-301-10. Transfer Documents.**

Each time that physical custody or title of gasoline destined for a control area changes hands other than when gasoline is sold or dispensed for use in motor vehicles at a retail outlet or wholesale purchaser-consumer installation, the transferor shall provide to the transferee, in addition to, or as part of, normal bills of lading, invoices, etc., a document containing information regarding that shipment. This document shall accompany every shipment of gasoline to a control area after it has been dispensed by a terminal, or the information shall be included in the normal paperwork which accompanies every shipment of gasoline. The information shall legibly and conspicuously contain the following information:

- (1) the date of the transfer;
- (2) the name, address, and CAR, blender CAR, carrier, distributor, or reseller identification number, if applicable, of the transferor;
- (3) the name, address, and CAR, blender CAR, carrier, distributor, or reseller identification number, if applicable, of the transferee;
- (4) the volume of gasoline which is being transferred;
- (5) identification of the gasoline as oxygenated or, if non-oxygenated, with a statement labeling it as "Non-oxygenated gasoline, not for sale to ultimate consumer in a control area during a control period";
- (6) the location of the gasoline at the time of the transfer;

(7) type of each oxygenate and percentage by volume for each oxygenate;

(8) oxygen content by weight percent; and

(9) for gasoline which is in the gasoline distribution network between the refinery or import installation and the control area terminal, for each oxygenate used, the type of oxygenate, its purity and percentage by volume and the oxygen content by weight percent.

#### **R307-301-11. Prohibited Activities.**

(1) During the control period, no refiner, oxygenate blender, CAR, blender CAR, control area terminal operator, carrier, distributor or reseller may manufacture, sell, offer for sale, dispense, supply, offer for supply, store, transport, or cause the transport of:

(a) gasoline which contains less than 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1% oxygen, for use during the control period, in a control area unless clearly marked documents accompany the gasoline labeling it as "Non-oxygenated gasoline, not for sale to ultimate consumer in a control area during a control period"; or

(b) gasoline represented as oxygenated which has an oxygen content which is improperly stated in the documents which accompany such gasoline.

(2) No retailer or wholesale purchaser-consumer may dispense, offer for sale, sell or store, for use during the control period, gasoline which contains less than 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1% in a control area.

(3) No person may operate as a CAR or blender CAR or hold themselves out as such unless they have been properly registered by the executive secretary. No CAR or blender CAR may offer for sale or store, sell, or dispense gasoline, to any person not registered as a CAR or blender CAR for use in a control area, unless:

(a) the average oxygen content of the gasoline during the averaging period meets the standard established in R307-301-3; and

(b) the gasoline contains at least 2.0% oxygen by weight, or 2.6% oxygen by weight if the average oxygen content standard is 3.1% on a per-gallon basis.

(4) For terminals which sell or dispense gasoline intended for use in a control area during a control period, the terminal owner or operator may not accept gasoline into the terminal unless:

(a) transfer documentation containing the information specified in R307-301-8(3) accompanies the gasoline and

(b) the terminal owner or operator conducts a quality assurance program to verify the accuracy of this information.

(5) No person may sell or dispense non-oxygenated gasoline for use in any control area during the control period, unless:

(a) the non-oxygenated gasoline is segregated from oxygenated gasoline;

(b) clearly marked documents accompany the non-oxygenated gasoline labeling it as "non-oxygenated gasoline, not for sale to

ultimate consumer in a control area during a control period," and

(c) the non-oxygenated gasoline is in fact not sold or dispensed to ultimate consumers during the control period in the control area.

(6) No named person may fail to comply with the recordkeeping and reporting requirements contained in R307-301-8 through 10.

(7) No person may sell, dispense or transfer oxygenated gasoline, except for use by the ultimate consumer at a retail outlet or wholesale purchaser-consumer installation, without transfer documents which accurately contain the information required by R307-301-10).

(8) Liability for violations of the prohibited activities.

(a) Where the gasoline contained in any storage tank at any installation owned, leased, operated, controlled or supervised by any retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, or oxygenate blender is found in violation of the prohibitions described in (1)(a) or (2) above, the following persons shall be in violation:

(i) the retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, or oxygenate blender who owns, leases, operates, controls or supervises the installation where the violation is found; and

(ii) each oxygenate blender, distributor, reseller, and carrier who, downstream of the control area terminal, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of any gasoline which is in the storage tank containing gasoline found to be in violation.

(b) Where the gasoline contained in any storage tank at any installation owned, leased, operated, controlled or supervised by any retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, or oxygenate blender is found in violation of the prohibitions described in (1)(b) or (2) above, the following persons shall be in violation:

(i) the retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, or oxygenate blender who owns, leases, operates, controls or supervises the installation where the violation is found; and

(ii) each refiner, oxygenate blender, distributor, reseller, and carrier who manufactured, imported, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of any gasoline which is in the storage tank containing gasoline found to be in violation.

(9) Defenses for prohibited activities.

(a) In any case in which a refiner, oxygenate blender, distributor, reseller or carrier would be in violation under (1) above, that person shall not be in violation if they can demonstrate that they meet all of the following:

(i) that the violation was not caused by the regulated party or its employee or agent;

(ii) that refiner, oxygenate blender, distributor, reseller or carrier possesses documents which should accompany the gasoline, which contain the information required by R307-301-8; and

(iii) that refiner, oxygenate blender, distributor, reseller or carrier conducts a quality assurance sampling and testing program as described in (10) below.

(b) In any case in which a retailer or wholesale purchaser-consumer would be in violation under (2) above, the retailer or wholesale purchaser-consumer shall not be in violation if it can demonstrate that they meet all of the following:

(i) that the violation was not caused by the regulated party or its employee or agent; and

(ii) that the retailer or wholesale purchaser-consumer possess documents which should accompany the gasoline, which contain the information required by R307-301-8 through 10.

(c) Where a violation is found at an installation which is operating under the corporate, trade or brand name of a refiner, that refiner must show, in addition to the defense elements required by (a) above, that the violation was caused by any of the following:

(i) an act in violation of law (other than the Clean Air Act or R307-301), or an act of sabotage or vandalism, or

(ii) the action of a reseller, distributor, oxygenate blender, carrier, or a retailer, or wholesale purchaser-consumer which is supplied by any of the persons listed in (a) above, in violation of a contractual undertaking imposed by the refiner designed to prevent such action, and despite periodic sampling and testing by the refiner to ensure compliance with such contractual obligation; or

(iii) the action of any carrier or other distributor not subject to a contract with the refiner but engaged by the refiner for transportation of gasoline, despite specification or inspection of procedures and equipment by the refiner or periodic sampling and testing which are reasonably calculated to prevent such action.

(d) In R307-301-8 through 11, the term "was caused" means that the party must demonstrate by specific showings or by direct evidence, that the violation was caused or must have been caused by another.

(10) Quality Assurance Program. In order to demonstrate an acceptable quality assurance program, a party must conduct periodic sampling and testing to determine if the oxygenated gasoline has oxygen content which is consistent with the product transfer documentation.

#### **R307-301-12. Labeling of Pumps.**

(1) Any person selling or dispensing oxygenated gasoline pursuant to R307-301 is required to label the fuel dispensing system with one of the following notices.

(a) "The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles. This fuel contains up to (specify maximum percent by volume) (specific oxygenate or specific combination of oxygenates in concentrations of at least one percent)."

(b) "The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles. This fuel contains up to (specify maximum percent by volume) (specific



oxygenate or combination of oxygenates present in concentrations of at least one percent) from November 1 through February 29."

(2) The label letters shall be block letters of no less than 20-point type, at least 1/16 inch stroke (width of type), and of a color that contrasts with the label background color. The label letters that specify maximum percent oxygenate by volume and that disclose the specific oxygenate shall be at least 1/2 inch in height, 1/16 inch stroke (width of type).

(3) The label must be affixed to the upper one-half of the vertical surface of the pump on each side with gallonage and dollar amount meters from which gasoline can be dispensed and must be clearly readable to the public.

(4) The retailer or wholesale purchaser-consumer shall be responsible for compliance with R307-301-12.

#### **R307-301-13. Inspections.**

Inspections of registered parties, control area retailers, refineries, control area terminals, oxygenate blenders and control area wholesale purchaser-consumers may include the following:

(1) physical sampling, testing, and calculation of oxygen content of the gasoline as specified in R307-301-4;

(2) review of documentation relating to the oxygenated gasoline program, including but not limited to records specified in R307-301-8; and

(3) in the case of control area retailers and wholesale purchaser-consumers, verification that gasoline dispensing pumps are labeled in accordance with R307-301-12.

#### **R307-301-14. Public and Industry Education Program.**

The executive secretary shall provide to the affected public, mechanics, and industry information regarding the benefits of the program and other issues related to oxygenated gasoline.

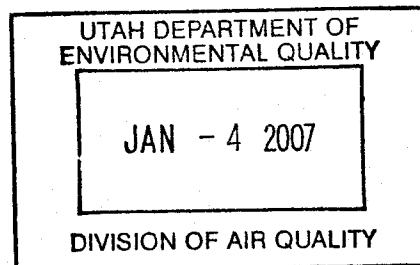
**KEY: air pollution control, motor vehicles, gasoline, petroleum**

**Date of Enactment or Last Substantive Amendment: May 18, 2004**

**Notice of Continuation: March 27, 2002**

**Authorizing, and Implemented or Interpreted Law: 19-2-101; 19-2-104**

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Attorneys for PacifiCorp

**BEFORE THE UTAH AIR QUALITY BOARD**

In Re: Approval Order – the Sevier Power  
Company 270 MW Coal-Fired Power  
Plant, Sevier County  
Project Code: N2529-001  
DAQE-AN2529001-04

**PACIFICORP'S RENEWED PETITION  
TO INTERVENE IN THE SIGURD  
PLANT APPEAL; STATEMENT OF  
STANDING**

In light of the Utah Supreme Court's recent decision granting standing to the Sierra Club and the Grand Canyon Trust (collectively, the "Sierra Club") to intervene in this proceeding, PacifiCorp submits this Renewed Petition to Intervene and respectfully requests the Board to grant standing to PacifiCorp to intervene in this proceeding. As part of its Renewed Petition, PacifiCorp incorporates herein by reference, and attaches hereto, its Original Petition to Intervene. PacifiCorp's Renewed Petition is premised on the changed conditions that: (i) the Utah Supreme Court has clarified Utah's standing law, (ii) the Sierra Club has been granted the right to intervene as a party, and (iii) counsel for the Executive Secretary has stated that the Executive Secretary no longer objects to PacifiCorp's intervention and participation as a party. In addition, PacifiCorp now has an interest in the IPP3 Project and its associated air permit that PacifiCorp did not have when it first sought to intervene in this matter.

Accordingly, pursuant to applicable law, because PacifiCorp's interests may be substantially affected by the Sierra Club's Request for Agency Action, and the interests of justice and the orderly and prompt conduct of the Request for Agency Action will not be materially impaired, the Board should grant PacifiCorp's Renewed Petition to Intervene.

## **I. BACKGROUND**

On November 1, 2004, the Sevier County Citizens for Clean Air and Water ("Sevier Citizens") filed their Request for Agency Action and Petition to Intervene with the Utah Air Quality Board ("Board") contesting the Utah Division of Air Quality's ("UDAQ") Approval Order ("AO") granting a Prevention of Significant Deterioration ("PSD") permit to Sevier Power Company ("Sevier Power") to construct and operate a power plant in Sigurd (the "Sigurd Plant"), Sevier County, Utah (the "Appeal"). Similarly, on November 12, 2004, the Utah Chapter of the Sierra Club and the Grand Canyon Trust (collectively, the "Sierra Club") filed their Request for Agency Action and Petition to Intervene contesting the UDAQ AO. On January 4, 2005, pursuant to Utah Admin. Code R307-103-6(2), PacifiCorp, an electric utility operating in the State of Utah ("PacifiCorp") submitted its Petition to Intervene in the Appeal, and pursuant to Utah Admin. Code R307-103-6(3), PacifiCorp also submitted its Statement of Standing for such intervention.

On May 5, 2005, the Board issued its Order relating to the above-referenced Petitions to Intervene. As to Sevier Citizens, the Board granted its Petition. As to the Sierra Club, the Board denied its Petition on the basis that, among other things, it failed to establish that it had a distinct and palpable injury resulting from the Executive Secretary's granting of the permit. Order at p. 5. As to PacifiCorp, the Board also denied its Petition on the basis that, among other things, it failed to establish that it had a distinct and palpable injury resulting from the issuance of the permit. Instead, the Board granted only amicus status to both the Sierra Club and PacifiCorp.

On May 17, the Sierra Club filed a Petition for Review with the Utah Court of Appeals seeking review of the Board's May 5, 2005 Order denying intervention. On December 5, 2005, the Utah Court of Appeals certified the matter for transfer to the Utah Supreme Court for determination. On November 21, 2006, the Utah Supreme Court issued its decision, holding that the Sierra Club does have standing to challenge the AO. In so concluding, the Court took the opportunity to reiterate and clarify Utah's standing law.

Because Sierra Club has now intervened in this proceeding, and because of the other changed conditions addressed below, PacifiCorp now submits this Renewed Petition to Intervene, which incorporates by reference its original Petition to Intervene.

## **II. LIMITED INTERVENTION**

In its original Petition to Intervene, and again in this Renewed Petition to Intervene, PacifiCorp very narrowly limits the issues or Appeal Points for which it seeks to intervene -- Appeal Points 1 (IGCC as BACT), 2 (Supercritical PC Boiler as BACT), and 3 (Greenhouse Gas Emission).

### **III. CHANGED CONDITIONS**

#### **A. Sierra Club's Intervention**

In its previous briefing and at the previous hearing before the Board, PacifiCorp stated that it supported the AO issued by UDAQ, and that it had submitted its Petition to Intervene only in response to the Request for Agency Action. It is the Supreme Court's decision granting standing to the Sierra Club, and clarifying Utah's standing requirements, that has prompted PacifiCorp to submit this Renewed Petition to Intervene.

#### **B. Withdrawal of Objection to PacifiCorp's Intervention**

In response to both the Sierra Club's and PacifiCorp's initial Petitions to Intervene, the Executive Secretary filed objections requesting that the Board dismiss both Petitions, and the Board dismissed both Petitions. However, now that the Supreme Court has permitted Sierra Club to participate in this proceeding, the Executive Secretary no longer objects to PacifiCorp's intervention and participation as a party in this proceeding.

#### **C. Clarification of Utah's Standing Law**

In the Introduction paragraph of its decision in *Sierra Club v. Utah Air Quality Bd.*, 2006 UT 74, after concluding that the Sierra Club does have standing, the Supreme Court stated that "[i]n so concluding, we take the opportunity to reiterate and clarify Utah's standing law." *Id.*, ¶1. Under the "distinct and palpable injury" test set forth in *Jenkins v. Swan*, 675 P.2d 1145 (Utah 1983), the petitioning party must allege sufficient adverse effects, causal relationship and redressability. As to the "adverse effects" component of the "distinct and palpable injury" test, the Court clarified that this requirement can be satisfied even if those effects or grievances are the same or similar grievances shared by other individuals or a group, and in doing eased the burden of satisfying this requirement. *Id.*, ¶¶ 25 & 26.

In its May 5, 2005 Order wherein the Board dismissed both Sierra Club's and PacifiCorp's Petitions to Intervene, the Board based its decision on, among other things, Sierra Club's and PacifiCorp's failure to demonstrate a sufficient "distinct and palpable injury." Order, at pp. 5 & 7. Of course, after clarifying, and easing the burden of satisfying the "distinct and palpable injury" test, the Supreme Court held that the Sierra Club does have standing, and the Board should now do likewise and hold that PacifiCorp likewise has standing.

#### **D. PacifiCorp's New Interest in the IPP3 Project**

Since PacifiCorp submitted its original Petition to Intervene, PacifiCorp has purchased a significant interest in the proposed power plant Unit #3 at the Intermountain Power Plant ("IPP3"), in Millard County, Utah. The outcome of this Appeal has significant implications for IPP3, and its constituent owners such as PacifiCorp. In other words, the adverse impacts of a

decision in favor of the Sierra Club here would not be limited to Sevier Power, but would extend to the IPP3 and PacifiCorp as well.<sup>1</sup>

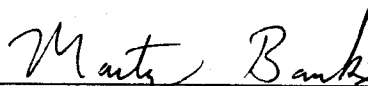
#### IV. CONCLUSION

PacifiCorp has provided herein all of the required components for its Renewed Petition to Intervene. The Utah Administrative Code provides that a petition to intervene "*shall* be granted" if the requirements of 63-46b-9(2) are met. Utah Admin. Code R307-103-6(2)(e). As demonstrated above, PacifiCorp's "legal interest may be substantially affected by the formal adjudicative proceeding," and "the interests of justice and the orderly and prompt conduct of the adjudicative proceedings will not be materially impaired by allowing the intervention." Accordingly, PacifiCorp respectfully requests that the Board grant its Renewed Petition to Intervene.

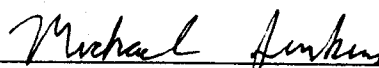
Dated this 2<sup>nd</sup> day of January, 2007.

ATTORNEYS FOR PACIFICORP

STOEL RIVES LLP



Martin K. Banks  
Richard R. Hall

 b-1 MB

Michael G. Jenkins, Assistant General Counsel

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<sup>1</sup> Since PacifiCorp submitted its original Petition to Intervene, it has withdrawn its then pending Hunter Unit 4 NOI. The same arguments asserted in PacifiCorp's original Petition to Intervene regarding that Hunter Unit 4 NOI apply with even more force to PacifiCorp's newly obtained interest in IPP3.

## CERTIFICATE OF SERVICE

I hereby certify that on this 2<sup>nd</sup> Day of January, 2007, I caused a copy of the forgoing Renewed Petition to Intervene to be mailed and emailed by United States Mail, postage prepaid, to the following:

Joro Walker  
David Becker  
Western Resources Advocates  
425 East 100 South  
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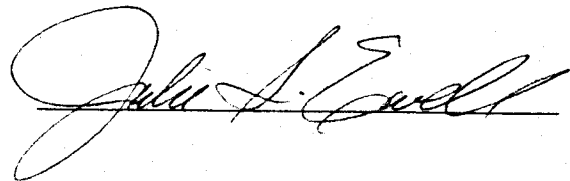
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## BEFORE THE UTAH AIR QUALITY BOARD

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In Re: Approval Order – the Sevier	:	SIERRA CLUB AND
Power Company 270 MW Coal-Fired	:	GRAND CANYON TRUST’S
Power Plant, Sevier County	:	OPPOSITION TO PACIFICORP’S
Project Code: N2529-001	:	RENEWED PETITION TO
DAQE-AN2529001-04	:	INTERVENE IN THE SPC
		MATTER

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The Utah Chapter of the Sierra Club and Grand Canyon Trust (collectively “Sierra Club”) hereby respectfully submits its Opposition to PacifiCorp’s Renewed Petition to Intervene in the Sevier Power Company (SPC) Matter. Sierra Club and PacifiCorp are currently trying to draft a mutually agreeable stipulation relative to Sierra Club’s response to PacifiCorp’s Petition. Because the rules are unclear about the calculation of time to respond to the Petition, Sierra Club submits the following limited Opposition.

If PacifiCorp will agree to the conditions described below, and PacifiCorp’s intervention is limited to the following two issues, then Sierra Club will **not** to oppose PacifiCorp’s Renewed Petition to Intervene in the Sevier Power Company matter currently before the Utah Air Quality Board (Board):

1. Utah Division of Air Quality/the Executive Secretary (DAQ) failed to address carbon dioxide and other greenhouse gas emissions in issuing the SPC PSD permit.
2. DAQ failed to consider adequately integrated gasification combined cycle (IGCC) in its BACT (Best Available Control Technology) determination for SPC facility.

If PacifiCorp agrees that it will not attempt to raise any issues and/or facts relevant only to the permit issued for New Unit 3 at Intermountain Power Generating Station in the

course of the SPC proceeding, and PacifiCorp agrees that it will confine itself to the facts and issues relevant to the SPC proceeding for the above two issues for which PacifiCorp seeks limited intervention in that proceeding, then Sierra Club will not oppose PacifiCorp's Renewed Petition to Intervene on these two issues.

However, if PacifiCorp intends by its renewed petition to intervene to raise issues and facts related to Intermountain Power Generating Station Unit 3 in the course of the SPC proceeding, PacifiCorp will in effect be seeking a consolidation of the two matters with respect to Unit 3 for the issues PacifiCorp identified in its renewed petition. PacifiCorp has indicated that it now holds a financial interest in Intermountain Power Service Corporation (IPSC), and as such it will have the opportunity to litigate these issues with respect to the New Unit 3 in the course of the IPSC permit proceedings. Sierra Club's challenges regarding greenhouse gas emissions and BACT in the SPC matter are specific to the facts involved in DAQ's decisions on the Approval Order for the SPC plant. In this event, Sierra Club opposes PacifiCorp's intervention in the SPC proceedings, because it will have ample opportunity to participate in the IPSC proceedings on account of its ownership interest in IPSC.

The Board's scheduling orders following the January 3, 2007 Board meeting show that it intends for the IPSC Unit 3 and SPC proceedings to run on concurrent – but not consolidated – schedules, allowing discovery, briefing and hearings to be staggered in the two matters, thereby avoiding undue burdens on the parties involved in both matters. In light of those scheduling orders, it would be improper for PacifiCorp to be allowed to litigate the factual issues related to Unit 3 in the course of the SPC matter if it is allowed to intervene in the latter matter.

PacifiCorp will have a full and fair opportunity to litigate factual issues related to IPSC Unit 3 in the course of the IPSC proceedings. Given that the Board intends discovery and the hearings to be staggered in the SPC and IPSC matters, PacifiCorp must not be allowed to force an acceleration of the discovery process in IPSC by requiring that discovery and briefing of the facts related to Unit 3 be conducted simultaneously with discovery related to SPC. Accordingly, Sierra Club's proposal that PacifiCorp's intervention be conditioned on PacifiCorp not raising any issues and/or facts relevant only to the permit issued for IPSC Unit 3 in the course of the SPC proceeding, and confining itself to the facts and issues relevant to the SPC proceeding, is reasonable, appropriate and consistent with the Board's scheduling orders in the two matters.

Sierra Club also opposes PacifiCorp's request to intervene on the issue that it described as "Appeal Point 2 (Supercritical PC Boiler as BACT)" in its Renewed Petition to Intervene, at page 2. This is because Sierra Club has not raised the issue of a supercritical pulverized coal boiler as BACT in its request for agency action related to SPC's proposed circulating fluidized bed plant. The issue of a supercritical boiler as BACT is not before the Board in the SPC case, and it is improper for an intervenor to request the Board to consider an issue that the parties filing the request for agency action have not raised in the SPC matter. PacifiCorp will have the opportunity to be involved in the determination of this issue in the IPSC matter by virtue of its financial interest in



IPSC. Sierra Club opposes PacifiCorp's intervention on this specific issue, even if the Board decides to allow PacifiCorp's limited intervention on the other two issues and on the conditions as described above.

Dated: January 12, 2007

/s/ David Becker  
JORO WALKER  
DAVID BECKER  
WESTERN RESOURCE ADVOCATES  
Attorneys for Utah Chapter of the  
Sierra Club and Grand Canyon Trust

## CERTIFICATE OF SERVICE

I hereby certify that on this 12<sup>th</sup> day of January 2007, I caused a copy of the foregoing Sierra Club and Grand Canyon Trust Opposition to PacifiCorp's Renewed Petition to Intervene in the Sevier Power Corporation Matter to be emailed to the following:

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UTAH DEPARTMENT OF  
ENVIRONMENTAL QUALITY

JAN 26 2007

DIVISION OF AIR QUALITY

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### BEFORE THE UTAH AIR QUALITY BOARD

In Re: Approval Order – the Sevier  
Power Company 270 MW Coal-Fired  
Power Plant, Sevier County  
Project Code: N2529-001  
DAQE-AN2529001-04

: SIERRA CLUB AND  
: PACIFICORP STIPULATION  
: REGARDING INTERVENTION  
: INTO SPC MATTER  
:

The Utah Chapter of the Sierra Club and Grand Canyon Trust (collectively “Sierra Club”) hereby agree **not** to oppose PacifiCorp’s Renewed Petition to Intervene in the Sevier Power Company matter currently before the Utah Air Quality Board, limited to the following issues raised in Sierra Club’s request for agency action:

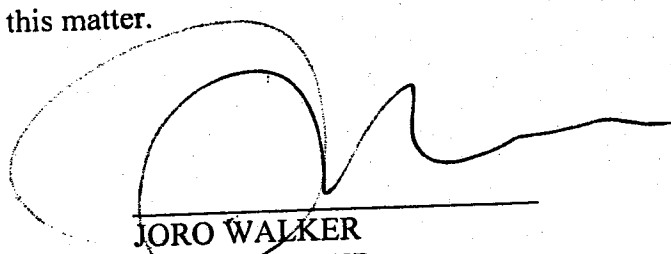
1. Utah Division of Air Quality/the Executive Secretary (DAQ) failed to address carbon dioxide and other greenhouse gas emissions in issuing the Sevier Power Company PSD permit.
2. DAQ Failed to Consider Adequately Integrated Gasification Combined Cycle in its BACT (Best Available Control Technology) Determination for the Sevier Power Company Facility.

Sierra Club agrees not to oppose PacifiCorp's Renewed Petition to Intervene given that PacifiCorp hereby agrees that it will not attempt to raise in the Sevier Power Company proceeding any issues and/or facts relevant only to the permit issued for New Unit 3 at Intermountain Power Generating Station. However, Sierra Club agrees that PacifiCorp may attempt to raise in the Sevier Power Company proceeding any common issues and/or common facts that may be relevant to both the Sevier Power Company proceeding and to the permit issued for New Unit 3 or to permitting issues in general. PacifiCorp further agrees in the Sevier Power Company proceeding that it will confine itself to the facts and issues relevant to the Sevier Power Company proceeding for the two issues noted above.

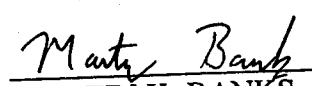
PacifiCorp hereby withdraws its request to intervene regarding what it listed as "Appeal Point 2 (Supercritical PC Boiler as BACT)" in its Renewed Petition to Intervene because Sierra Club has not raised the issue of a supercritical pulverized coal boiler as BACT in its request for agency action related to Sevier Power Company's proposed circulating fluidized bed plant.

PacifiCorp agrees to abide by the schedules establish in the Board's scheduling order of January 3, 2007 in this matter and in the Joint Stipulated Motion to Set Interim Scheduling dated January of 2007, also in this matter.

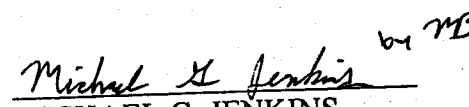
Dated: January 25<sup>th</sup>, 2007



JORO WALKER  
DAVID BECKER  
WESTERN RESOURCE ADVOCATES  
Attorneys for Utah Chapter of the  
Sierra Club and Grand Canyon Trust



MARTIN K. BANKS  
RICHARD R. HALL  
STOEL RIVES LLP  
Attorneys for PacifiCorp



MICHAEL G. JENKINS <sup>by MB</sup>  
Assistant General Counsel  
PacifiCorp

CERTIFICATE OF SERVICE

I hereby certify that on this 25<sup>th</sup> day of January 2007, I caused a copy of the foregoing Sierra Club and PacifiCorp Stipulation Regarding Intervention Into SPC Matter to be mailed by United States Mail, postage prepaid, to the following:

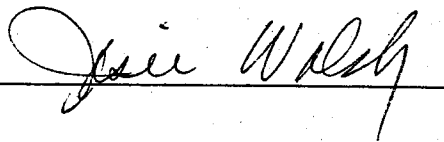
Rick W. Sprott  
Utah Air Quality Board  
Division of Air Quality  
150 North 1950 West  
Salt Lake City, UT 84116

Christian C. Stephens  
Paul McConkie  
Attorney General's Office  
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P.O. Box 144820  
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Fred Nelson  
Attorney General's Office  
160 East 300 South, 5<sup>th</sup> Floor  
P.O. box 140873  
Salt Lake City, UT 84114

E. Blaine Rawson  
George Haley  
Holme Roberts & Owen  
299 S. Main Street, #1800  
Salt Lake City, UT 84111

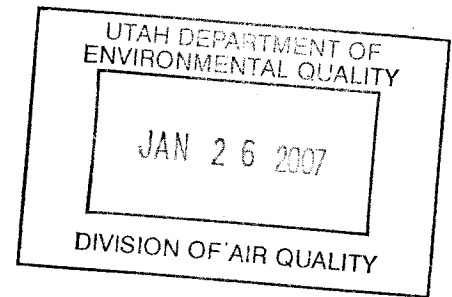
Fred W. Finlinson  
Finlinson & Finlinson, PLLC  
11955 West Fairfield Road  
Saratoga Springs, UT 84045

  
\_\_\_\_\_

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Facsimile: 801-766-8717

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Salt Lake City, UT 84133  
Telephone: 801-530-7428  
Facsimile: 801-364-9127

*Attorneys for Sevier Power Company*



---

BEFORE THE UTAH AIR QUALITY BOARD

---

In Re: Approval Order – the Sevier Power Company 270 MW Coal-Fired Power Plant, Sevier County Project Code: N2529-001 DAQE-AN2529001-04	JOINT STIPULATED MOTION TO SET INTERIM SCHEDULING DATES
---	--

At the January 3, 2007 Utah Board of Air Quality ("Board") hearing, the Board entered an order setting discovery cut-off and hearing dates for the above-captioned matter. The Board also requested that the parties meet and agree to "interim" dates for discovery, motions, etc. The parties, Sevier Power Company ("Sevier Power"), Grand Canyon Trust, the Utah Chapter of the Sierra Club, the Utah Division of Air Quality, together with potential intervenor, PacifiCorp, met and conferred as directed by Board. This meeting was held jointly with the parties in the Intermountain Power Service Corporation ("IPSC") matter so that schedules could be coordinated, to the extent possible. As a result, the parties in the Sevier Power matter provide

the following stipulated dates for adoption by the Board, in addition to those dates already set by the Board.

Description of Activity	Date
Production of the Administrative Record	February 1, 2007
Filing of the First Round of Dispositive Motions	February 26, 2007
Opposition Memorandums for First Round	March 19, 2007
Reply Memorandums for First Round	March 26, 2007
Hearing on First Round of Dispositive Motions	April 2007 Board Meeting
Exchange of Preliminary Witness Lists	April 1, 2007
Close of Fact Discovery	June 1, 2007
Expert Reports Due	June 20, 2007
Close of Expert Discovery	July 31, 2007
Post-Discovery Dispositive Motions	August 3, 2007
Opposition Memorandum to same	August 17, 2007
Reply Memorandum to same	August 27, 2007
Hearing on Post-Discovery Motions	September 2007 Board Meeting
Draft List of Pre-Hearing Documents	15 Days before September 2007 Hearing Date
Pre-Hearing Briefs (which shall include Final Lists of Pre-Hearing Documents and Final Witness Lists)	10 Days before September 2007 Hearing Date
Hearing on the Merits	Late September 2007

The parties also agree to the procedures and limitations outlined below.

1. If any party desires to file a dispositive motion outside the dates provided for in the schedule above, the parties shall convene another scheduling meeting to establish the dates for the filing of the briefs, oppositions, and replies.

2. The procedures for taking discovery (including but not limited to the amount of discovery allowed) shall be governed by the Utah Rules of Civil Procedure, unless otherwise agreed to by the parties or ordered by the Board.

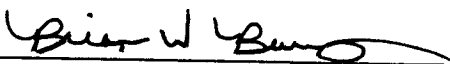
3. Motions and briefs shall be limited to 15 double spaced pages for each issue discussed within the brief or motion. This same limit applies to an opposition memorandum. Reply memorandum shall be limited to 7 double spaced pages for each issue.

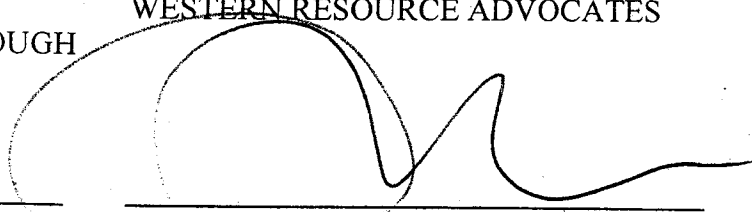
4. The Pre-Hearing Brief shall be limited to 35 double spaced pages, exclusive of the proposed order.

RESPECTFULLY SUBMITTED this 25<sup>th</sup> day of January, 2007.

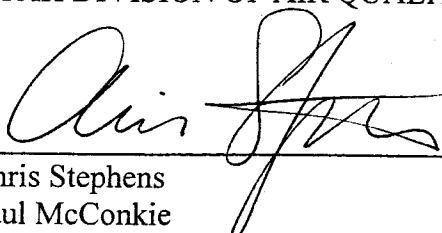
FINLINSON & FINLINSON, PLLC  
CALLISTER NEBEKER & McCULLOUGH

WESTERN RESOURCE ADVOCATES

  
\_\_\_\_\_  
Brian W. Burnett,  
Callister Nebeker & McCullough  
*Attorneys for Sevier Power Company*

  
\_\_\_\_\_  
Joro Walker  
David H. Becker  
Western Resource Advocates, attorneys for  
Sierra Club and Grand Canyon Trust

UTAH DIVISION OF AIR QUALITY

  
\_\_\_\_\_  
Chris Stephens  
Paul McConkie  
Assistant Attorney General for the Division of  
Air Quality



**CERTIFICATE OF SERVICE**

I hereby certify that on January 26<sup>th</sup>, 2007, undersigned served a copy of the foregoing **JOINT STIPULATED MOTION TO SET INTERIM SCHEDULING DATES** on the following by:

Joro Walker  
David H. Becker  
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425 East 100 South  
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[jwalker@westernresources.org](mailto:jwalker@westernresources.org)  
[dbecker@westernresources.org](mailto:dbecker@westernresources.org)

VIA EMAIL

Rick Sprott, Executive Director  
Cheryl Heying, Acting Executive Director  
Division of Air Quality  
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VIA EMAIL

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Utah Attorney General's Office  
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VIA EMAIL

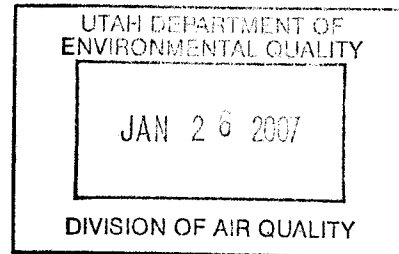
H. Michael Keller  
Matthew F. McNulty, III  
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VIA EMAIL

Brian W. Banks



HOLME ROBERTS & OWEN LLP  
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299 South Main Street, Suite 1800  
Salt Lake City, Utah 84111-2263  
Telephone: (801) 521-5800  
Facsimile: (801) 521-9639

*Attorneys for Intermountain Power Service Corporation*

---

BEFORE THE UTAH AIR QUALITY BOARD

---

In Re: Approval Order – PSD Major Modification to Add New Unit 3 at Intermountain Power Generating Station, Millard County, Utah Project Code: N0327-010 DAQE-AN0327010-04	<b>JOINT STIPULATED MOTION TO SET INTERIM SCHEDULING DATES</b>
---	--

At the January 3, 2007 Utah Board of Air Quality ("Board") hearing, the Board entered an order setting discovery cut-off and hearing dates for the above-captioned matter and the Board requested the parties meet and agree to "interim" dates for discovery, motions, etc. The parties, Intermountain Power Service Corporation ("IPSC"), Grand Canyon Trust, the Utah Chapter of the Sierra Club, and the Utah Division of Air Quality, met and conferred as directed by Board. This meeting was held jointly with the parties in the Sevier Power Company matter so that schedules could be coordinated, to the extent possible. As a result, the parties in the IPSC matter provide the following stipulated dates for adoption by the Board, in addition to those dates already set by the Board.

<b>Description of Activity</b>	<b>Date</b>
Production of the Administrative Record	February 1, 2007
Filing of the First Round of Dispositive Motions	February 26, 2007
Opposition Memorandums for First Round	March 19, 2007
Reply Memorandums for First Round	March 26, 2007
Hearing on First Round of Dispositive Motions	April 2007
Exchange of Preliminary Witness Lists	May 1, 2007
Close of Fact Discovery	June 15, 2007
Expert Reports Due	July 15, 2007
Close of Expert Discovery	August 31, 2007
Post-Discovery Dispositive Motions	September 5, 2007
Opposition Memorandum to same	September 19, 2007
Reply Memorandum to same	September 26, 2007
Hearing on Post-Discovery Motions	October 2007
Draft List of Pre-Hearing Documents	15 Days before November 2007 Hearing Date
Pre-Hearing Briefs (which shall include Final Lists of Pre-Hearing Documents and Final Witness Lists)	10 Days before November 2007 Hearing Date
Hearing on the Merits	November 2007

The parties also agree to the procedures and limitations outlined below.

1. If any party desires to file a dispositive motion outside the dates provided for in the schedule above, the parties shall convene another scheduling meeting to establish the dates for the filing of the briefs, oppositions, and replies.


2. The procedures for taking discovery (including but not limited to the amount of discovery allowed) shall be governed by the Utah Rules of Civil Procedure, unless otherwise agreed to by the parties or ordered by the Board.

3. Motions and briefs shall be limited to 15 double spaced pages for each issue discussed within the brief or motion. This same limit applies to an opposition memorandum. Reply memorandum shall be limited to 7 double spaced pages for each issue.

4. The Pre-Hearing Brief shall be limited to 35 double spaced pages, exclusive of the proposed order.

RESPECTFULLY SUBMITTED this 26<sup>th</sup> day of January, 2007.

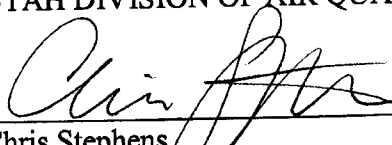
HOLME ROBERTS & OWEN LLP

  
E. Blaine Rawson,  
Holme Roberts & Owen LLP  
Attorneys for Intermountain Power Service  
Corporation

WESTERN RESOURCE ADVOCATES

Joro Walker - signed by Blaine  
Joro Walker  
David H. Becker  
Western Resource Advocates, attorneys for Sierra  
Club and Grand Canyon Trust  
*Rawson at Joro's request 1/26/07*

UTAH DIVISION OF AIR QUALITY



---

Chris Stephens

Paul McConkie

Assistant Attorney General for the Division of Air Quality

### CERTIFICATE OF SERVICE

I hereby certify that on January 20<sup>th</sup>, 2007, undersigned served a copy of the foregoing **JOINT STIPULATED MOTION TO SET INTERIM SCHEDULING DATES** on the following by:

Joro Walker  
David H. Becker  
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dbecker@westernresources.org

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Cheryl Heying, Acting Executive Director  
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RSPROTT@utah.gov

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Utah Attorney General's Office  
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cstephens@utah.gov

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\_\_\_\_\_





State of Utah

Department of  
Environmental Quality

Dianne R. Nielson, Ph.D.  
*Executive Director*

DIVISION OF AIR QUALITY  
Richard W. Sprott  
*Director*

JON M. HUNTSMAN, JR.  
*Governor*

GARY HERBERT  
*Lieutenant Governor*

## MEMORANDUM

DAQC-69-2007

**TO:** Air Quality Board

**FROM:** Richard W. Sprott, Executive Secretary

**DATE:** January 17, 2007

**SUBJECT:** COMPLIANCE ACTIVITIES – December 2006

---

Annual Inspections Conducted:

A.....4  
SM.....3  
B.....7

Initial Compliance Inspections Conducted:

A.....0  
SM.....0  
B.....1

On-Site stack test audits conducted: .....0  
Stack test report reviews: .....19

On-site CEM audits conducted: .....15  
Emission reports reviewed: .....0

Miscellaneous inspections conducted: .....38  
Complaints received: .....19

VOC inspections:

Tankers.....	0
Degreasers.....	0
Paint Booths.....	8

Source Compliance Action Notice issued..... 1

Notices of Violation issued.....0

Compliance Advisories issued.....4

Settlement Agreements resolved.....2

Penalties Collected..... \$9,960

Notices of Violations issued to:

None

Compliance Advisories issued:

Clean Harbors

Hadco Construction

TM Crushing

Wasatch Integrated Waste Management District

Settlement Agreements Reached:

Ashdown Brother's Construction..... \$3,440.00

Western Rock Products..... \$6,520.00

Miscellaneous inspections include, e.g., surveillance, level I inspections, complaints, onsite training, tanker vapor certifications, dust patrol, smoke patrol, open burning, etc.



State of Utah

Department of  
Environmental Quality

Dianne R. Nielson, Ph.D.  
*Executive Director*

DIVISION OF AIR QUALITY  
Richard W. Sprott  
*Director*

JON M. HUNTSMAN, JR.  
*Governor*

GARY HERBERT  
*Lieutenant Governor*

## MEMORANDUM

DAQH-0035-07

**TO:** Utah Air Quality Board

**FROM:** Richard W. Sprott, Executive Secretary

**DATE:** January 12, 2006

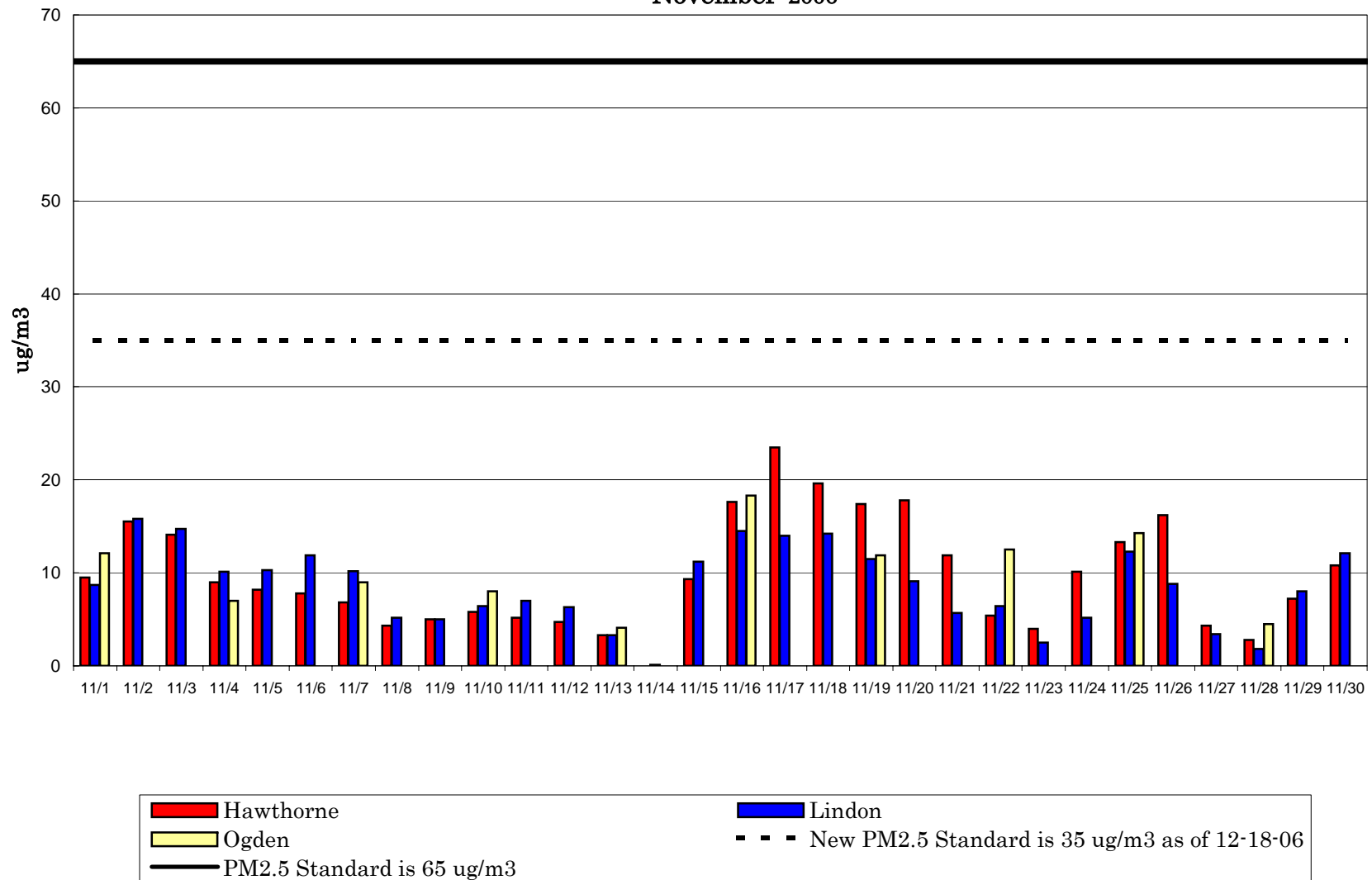
**SUBJECT:** Hazardous Air Pollutant Section Compliance Activities – December 2007

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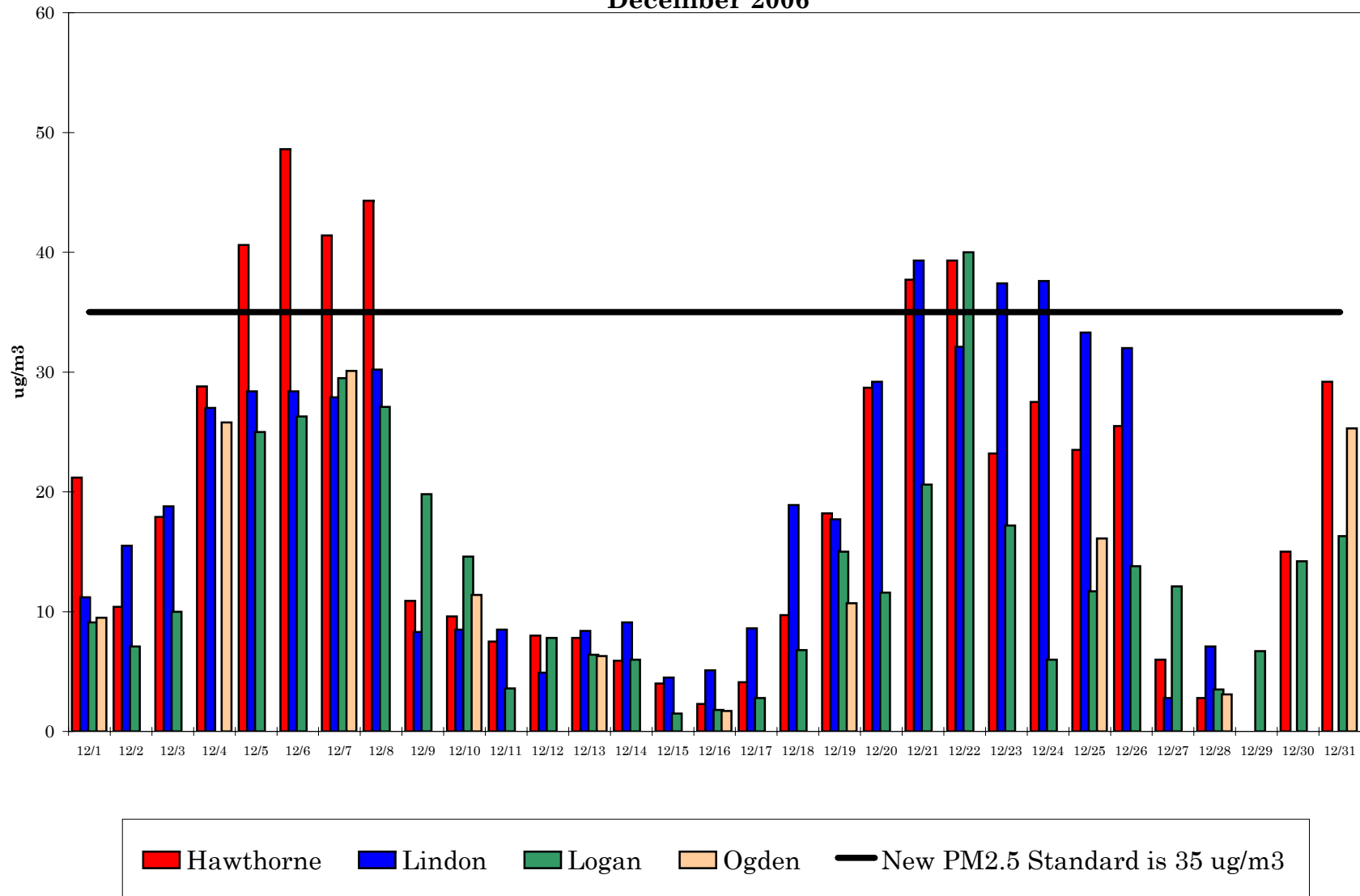
MACT Compliance Inspections	10
Other NESHAP Inspections	0
Asbestos Demolition/Renovation Inspections	6
Asbestos in School Inspections	5
Asbestos State Rules (Only) Inspections	0
Asbestos Notifications Accepted	93
Asbestos Phone Calls Answered	316
Asbestos Individuals Certifications Approved/Disapproved	83/0
Asbestos Company Certifications/Re-certifications	1/37
Asbestos Alternate Work Practices Approved/Disapproved	6/0
Lead-Based Paint (LBP) Inspections	2

LBP Notifications Approved	2
LBP Phone Calls Answered	51
LBP Letters prepared and mailed	9
LBP Courses Reviewed/Approved	0/0
LBP Course Audits	0
LBP Certifications Approved/Disapproved	0/0
LBP Company Certifications	4
Small Business Phone Calls Answered	5
Notices of Violation Issued	1
Notices of Noncompliance Issued	0
Compliance Advisories Issued	4
Leavitt Construction	
Utah Disaster Kleenup	
University of Utah, RMCOEH	
Northwest Laborers-Employers Training Trust Fund	
SCANS or Warning Letters Issued	5
Settlement Agreements Finalized	0
Penalties Agree to	\$10,390.63
Okland Construction	\$10,390.63

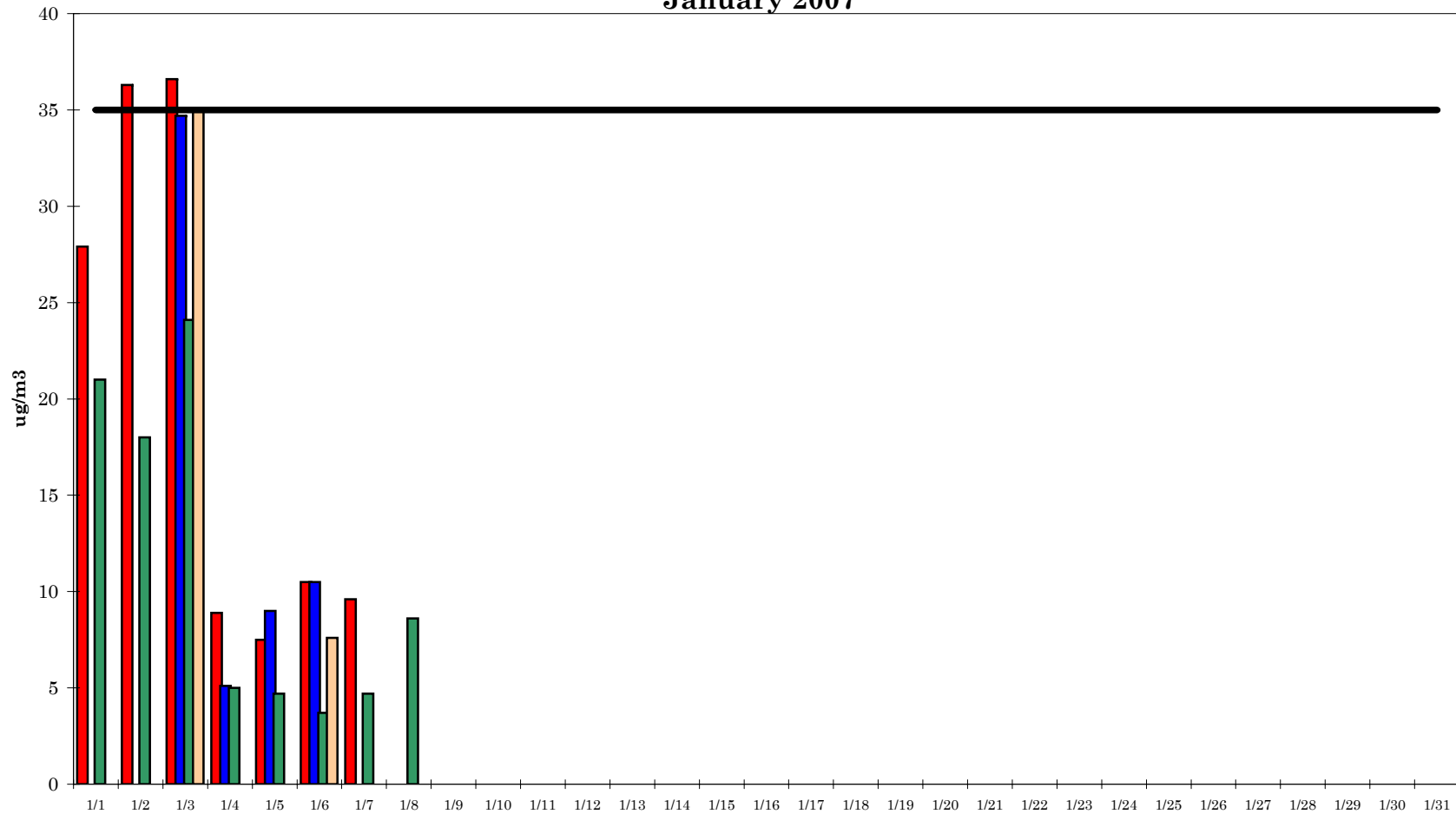
# Daily PM<sub>2.5</sub> Filter at Hawthorne, Lindon, & Ogden November 2006



# Daily PM2.5 Filter at Hawthorne, Lindon, Logan, & Ogden December 2006



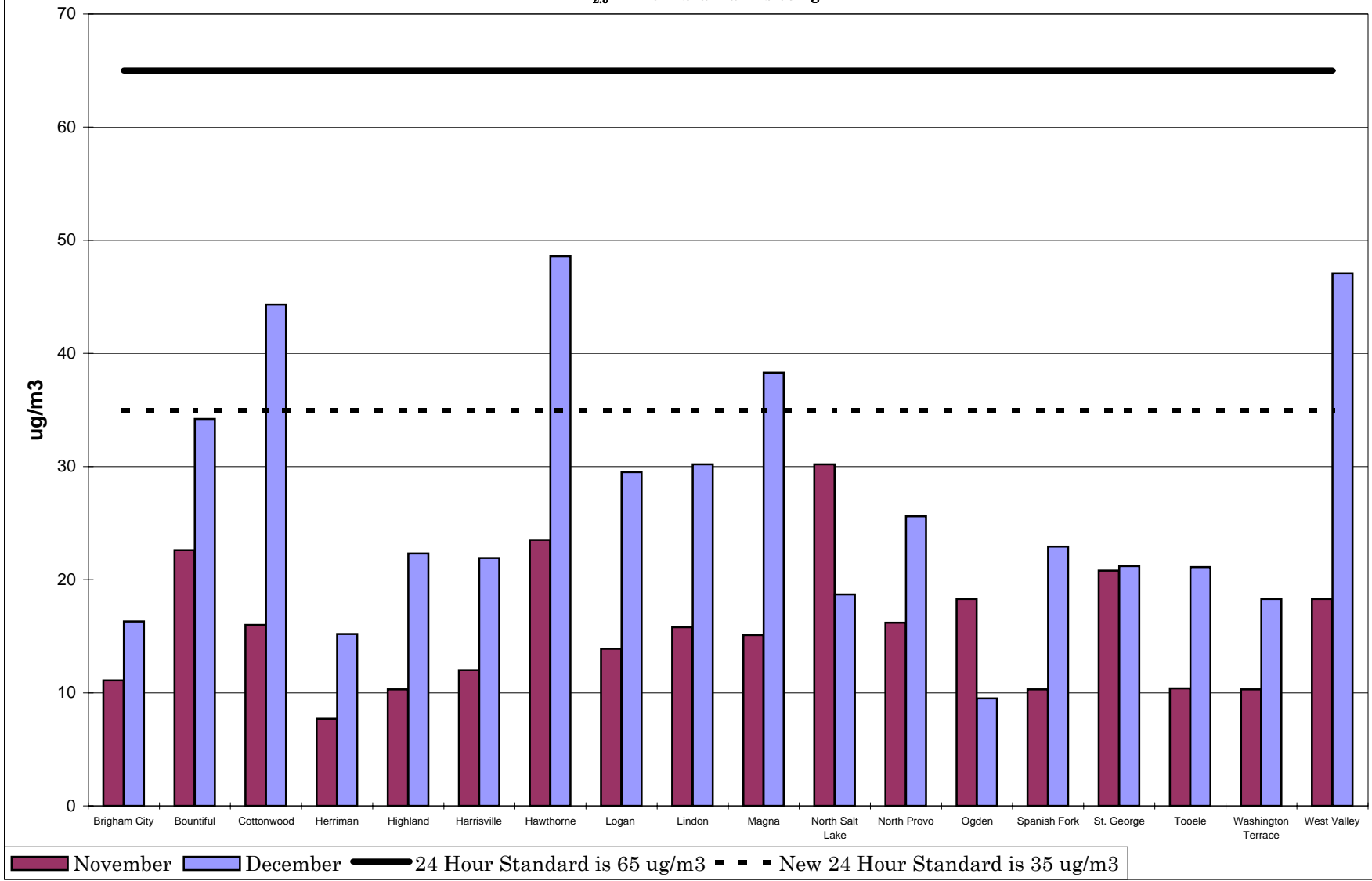
# Daily PM2.5 Filter at Hawthorne, Lindon, Logan, & Ogden January 2007



■ Hawthorne    ■ Lindon    ■ Logan    ■ Ogden    — PM2.5 Standard is 35 ug/m3

# Highest PM<sub>2.5</sub> Concentration for November-December 2006

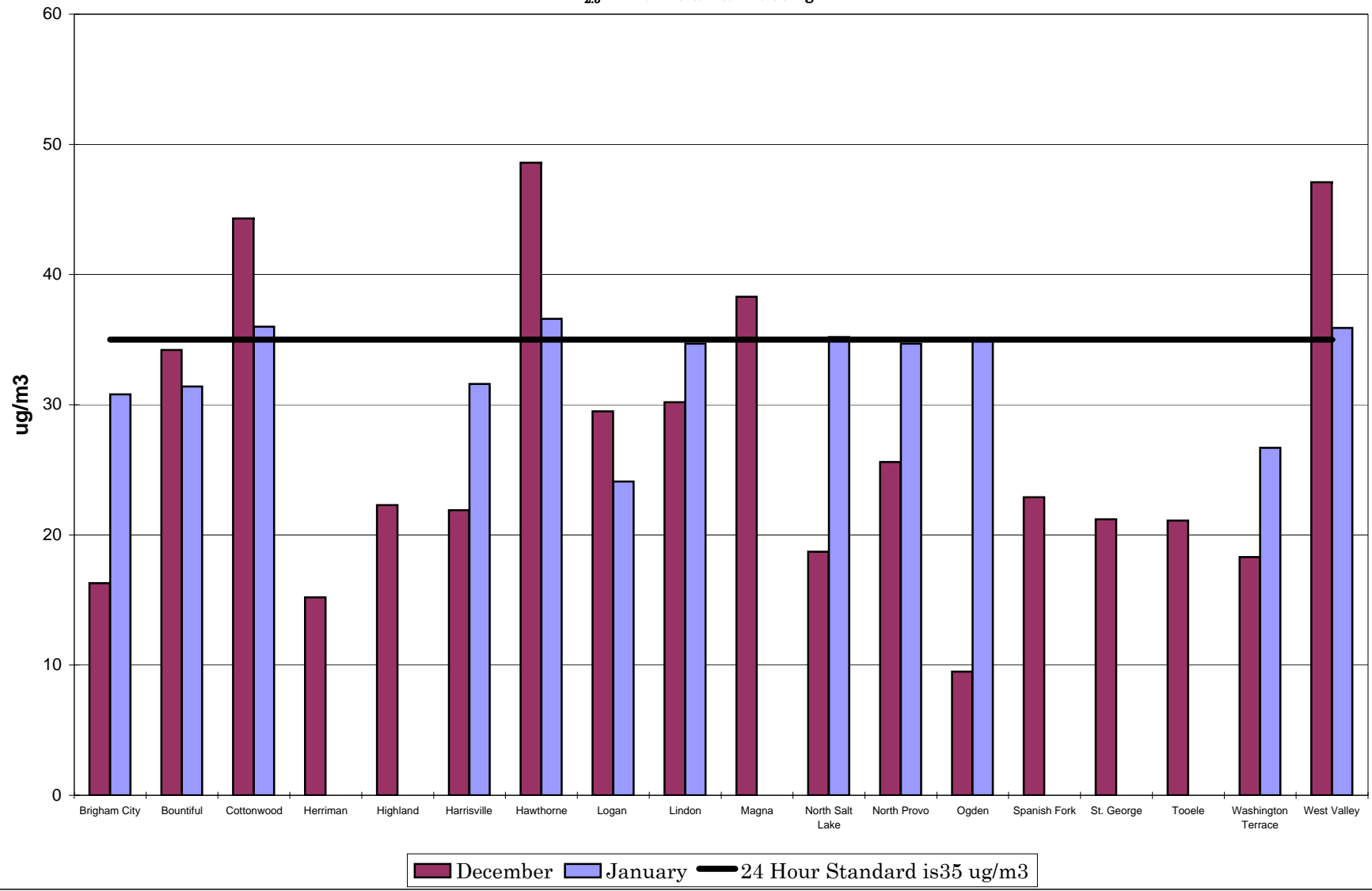
PM<sub>2.5</sub> 24 Hour Standard is 65 ug/m<sup>3</sup>





# Highest PM<sub>2.5</sub> Concentration for December 2006-January 2007

PM<sub>2.5</sub> 24 Hour Standard is 35 ug/m<sup>3</sup>



UTAH STATE DIVISION OF AIR QUALITY

PM2.5 Actual Concentration (24-hr average) in Micrograms per Cubic Meter  
2006 December

Date	BR	BV	CW	HE	HG	HV	HW	VL	L4	X4	LN	LX	MG	N2	NP	O2	SF	SW	T3	WT	WX	WV	VX
12/01	5.9	14.3	16.6	9.1	16.6	9.9	21.2		9.1	11.5	11.2	11.2	10.0	18.7	12.5	9.5	12.2	16.7	5.2	9.5	9.5	16.4	15.6
12/02							10.4		7.1	7.4	15.5			11.7									
12/03							17.9		10.0	12.3	18.8			18.0									
12/04	16.3		37.4	15.2	19.7	21.9	28.8			16.3	27.0		19.4	31.9	21.4	25.8	18.5		16.7	18.3		31.1	
12/05							40.6		25.0	26.4	28.4			47.5				21.2					
12/06							48.6		26.3	28.7	28.4			55.4									
12/07	24.7	34.2	44.3	14.0	22.3	24.6	41.4		29.5	30.1	27.9	28.2	38.3	54.5	25.6	30.1	22.9		21.1	22.1	22.1	47.1	46.1
12/08							44.3		27.1		30.2			53.8									
12/09							10.9		19.8	18.6	8.3			13.2									
12/10	8.4	9.0	9.5	5.0	5.8	10.6	9.6	18.9	14.6	14.2	8.5		4.3	7.6	8.3	11.4	5.4		6.1	7.3		6.1	
12/11							7.5		3.6	3.9	8.5			7.7									
12/12							8.0		7.8	7.5	4.9			10.0									
12/13	6.5	5.6	6.6	2.8	5.4	4.3	7.8		6.4	6.4	8.4	8.7	2.0	7.7	10.5	6.3	6.4		2.6	4.9	4.1	5.3	4.0
12/14							5.9	9.1	6.0	5.7	9.1			6.3									
12/15							4.0		1.5	2.2	4.5			5.4									
12/16	1.4	2.7	3.7	1.9	3.6	1.3	2.3	2.7	1.8	2.2	5.1		1.6	2.3	5.4	1.7	4.0		3.1	1.7			
12/17							4.1		2.8	3.2	8.6			4.9									
12/18							9.7		6.8	7.5	18.9			16.5									
12/19	5.6	14.8	22.0	11.2	15.6	7.2	18.2		15.0	15.1	17.7	18.2	14.0	25.4	19.8	10.7	19.5		9.4	8.6	9.3	22.1	21.9
12/20							28.7	16.8	11.6	12.2	29.2			31.6									
12/21							37.7		20.6	21.2	39.3			39.9									
12/22	41.8	35.0	39.3	29.6	48.0	41.5	39.3	28.5	40.0	41.9	32.1		29.3	36.8	44.0		38.8		22.7	31.0		38.5	
12/23							23.2		17.2		37.4			25.8									
12/24							27.5		6.0		37.6			26.3									
12/25	21.5	17.2	29.0	9.5	24.5	19.1	23.5	17.6	11.7		33.3	33.9		21.0	27.7	16.1	13.9			14.8		18.0	
12/26							25.5		13.8		32.0			26.9									
12/27							6.0		12.1		2.8			7.5									
12/28	2.2	4.7	3.6	2.5	4.1	3.0	2.8	3.0	3.5	3.4	7.1		2.6	4.1	7.3	3.1	5.0		3.2	3.3		2.8	
12/29									6.7	6.8				6.2									
12/30							15.0		14.2	14.5				18.8									
12/31	23.9	27.9	29.2	22.1	22.8	24.9	29.2		16.3	17.0		24.0		30.1	22.6	25.3	19.5		18.8	23.5	22.0	30.0	27.8

Arith Mean	14.4	16.5	21.9	11.2	17.1	15.3	20.0	13.8	13.5	13.4	19.3	20.7	13.5	21.7	18.6	14.0	15.1	18.9	10.9	13.2	13.4	21.3	23.1
Max 24-hr Avg	41.8	35.0	44.3	29.6	48.0	41.5	48.6	28.5	40.0	41.9	39.3	33.9	38.3	55.4	44.0	30.1	38.8	21.2	22.7	31.0	22.1	47.1	46.1
Std.Dev	12.5	12.0	14.9	8.7	13.0	12.3	14.0		9.5	10.0	12.1	9.8	13.2	16.0	11.4	10.0	8.1	9.5	3.2	9.5	8.2	14.2	15.6
Days Data	11	10	11	11	11	11	30	7	31	25	28	6	9	31	11	10	11	2.0	10	11	5	11	5
Yearly Mean	80.0	9.1	10.5	7.9	8.8	8.0	10.2	13.8	8.0	8.5	9.5	9.6	7.9	13.6	9.4	9.7	8.2	8.2	6.5	8.2	7.7	11.0	10.5

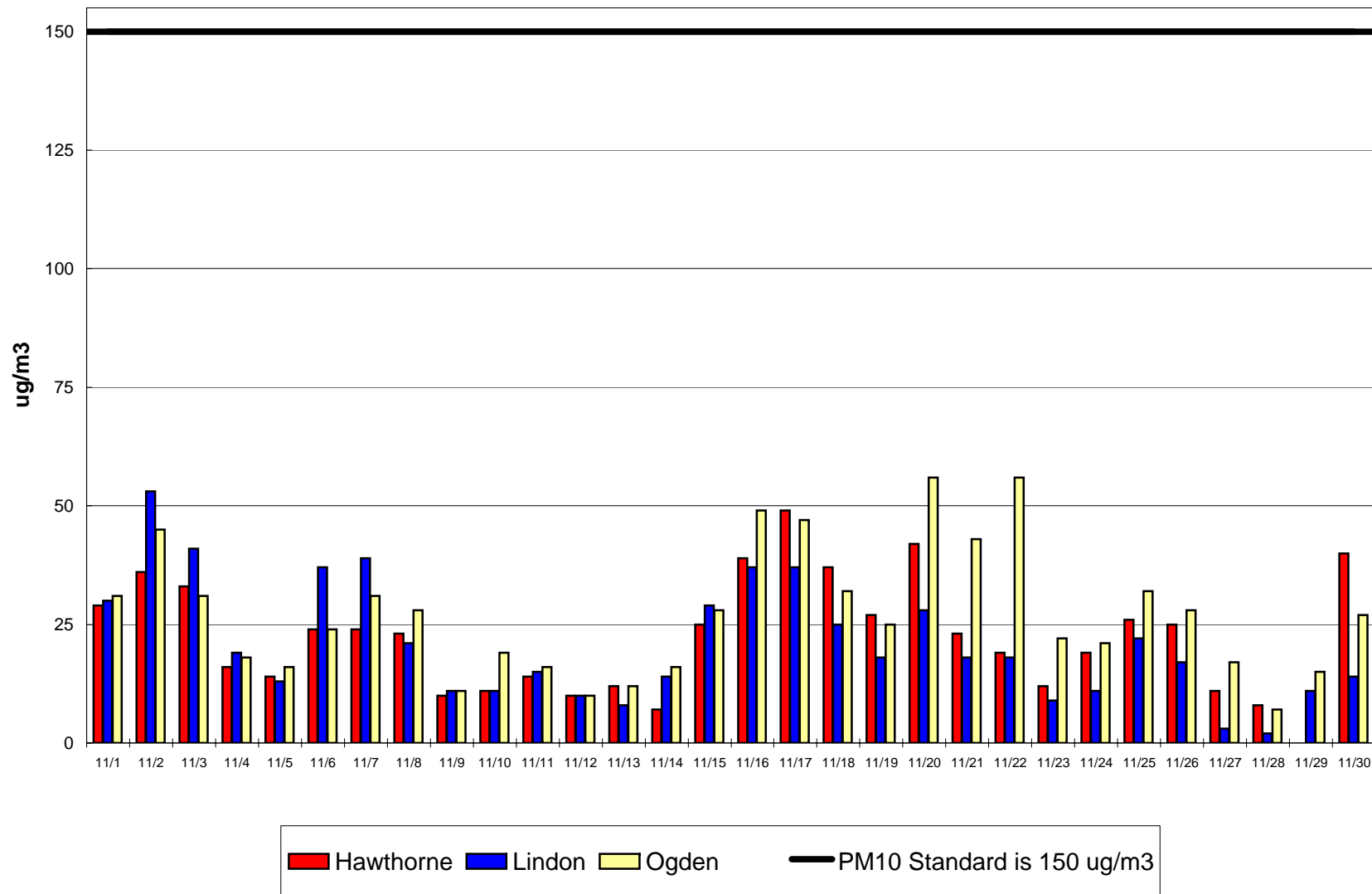
UTAH STATE DIVISION OF AIR QUALITY

PM2.5 Actual Concentration (24-hr average) in Micrograms per Cubic Meter  
2007 January

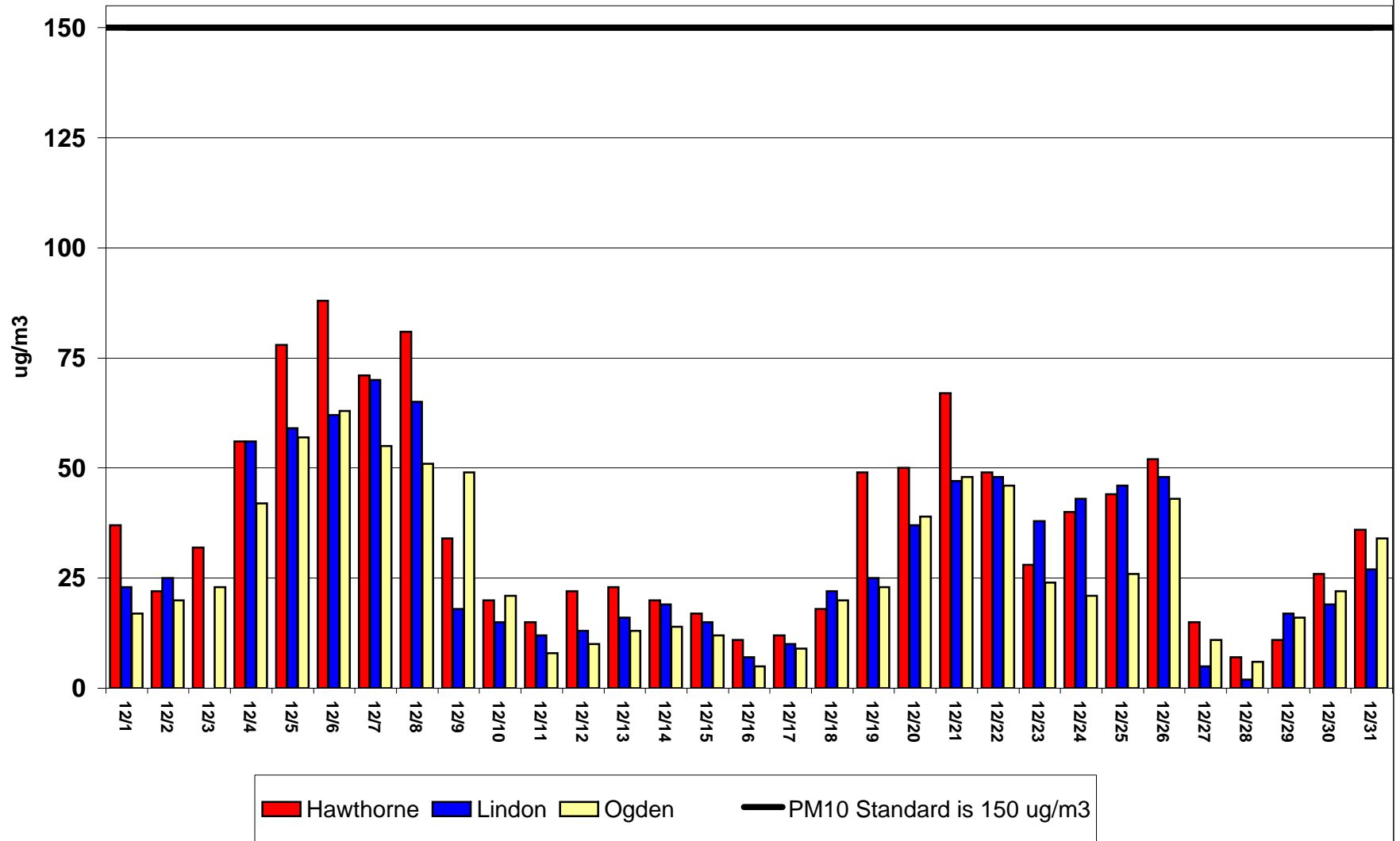
Date	BR	BV	CW	HE	HG	HV	HW	VL	L4	X4	LN	LX	MG	N2	NP	O2	SF	SW	T3	WT	WX	WV	VX
01/01							27.9		21.0	18.0				26.7									
01/02							36.3		18.0	18.7				35.2									
01/03	30.8	31.4	36.0			31.6	36.6		24.1	26.0	34.7				34.7	35.0				26.7		35.9	
01/04							8.9		5.0		5.1												
01/05							7.6		4.7		9.0												
01/06	3.2	9.2	8.7			6.8	10.5		3.7	3.8	10.5				12.2	7.6				6.3	8.0		
01/07							9.6		4.7														
01/08									8.6														
01/09			25.3																				
01/10																							
01/11																							
01/12																							
01/13																							
01/14																							
01/15																							
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01/27																							
01/28																							
01/29																							
01/30																							
01/31																							

Arith Mean	17.0	20.3	23.3			19.2	19.6		11.2	16.6	14.8			30.9	23.4	21.3				16.5	8.0	35.9	
Max 24-hr Avg	30.8	31.4	36.0			31.6	36.6		24.1	26.0	34.7			35.2	34.7	35.0				26.7	8.0	35.9	
Std.Dev	19.5	15.7	13.8			17.5	13.4		8.4	9.3	13.4			6.0	15.9	19.4		14.4		14.4			
Days Data	2	2	3			2	7		8	4	4			2	2	2				2	1	1	
Yearly Mean	78.5	9.4	11.0	7.9	8.8	8.3	10.5	13.8	8.1	8.7	9.6	9.6	7.9	13.7	9.7	10.0	8.2	8.2	6.5	8.4	7.7	11.3	10.5

# Daily PM<sub>10</sub> Filter at Hawthorne, Lindon, & Ogden November 2006

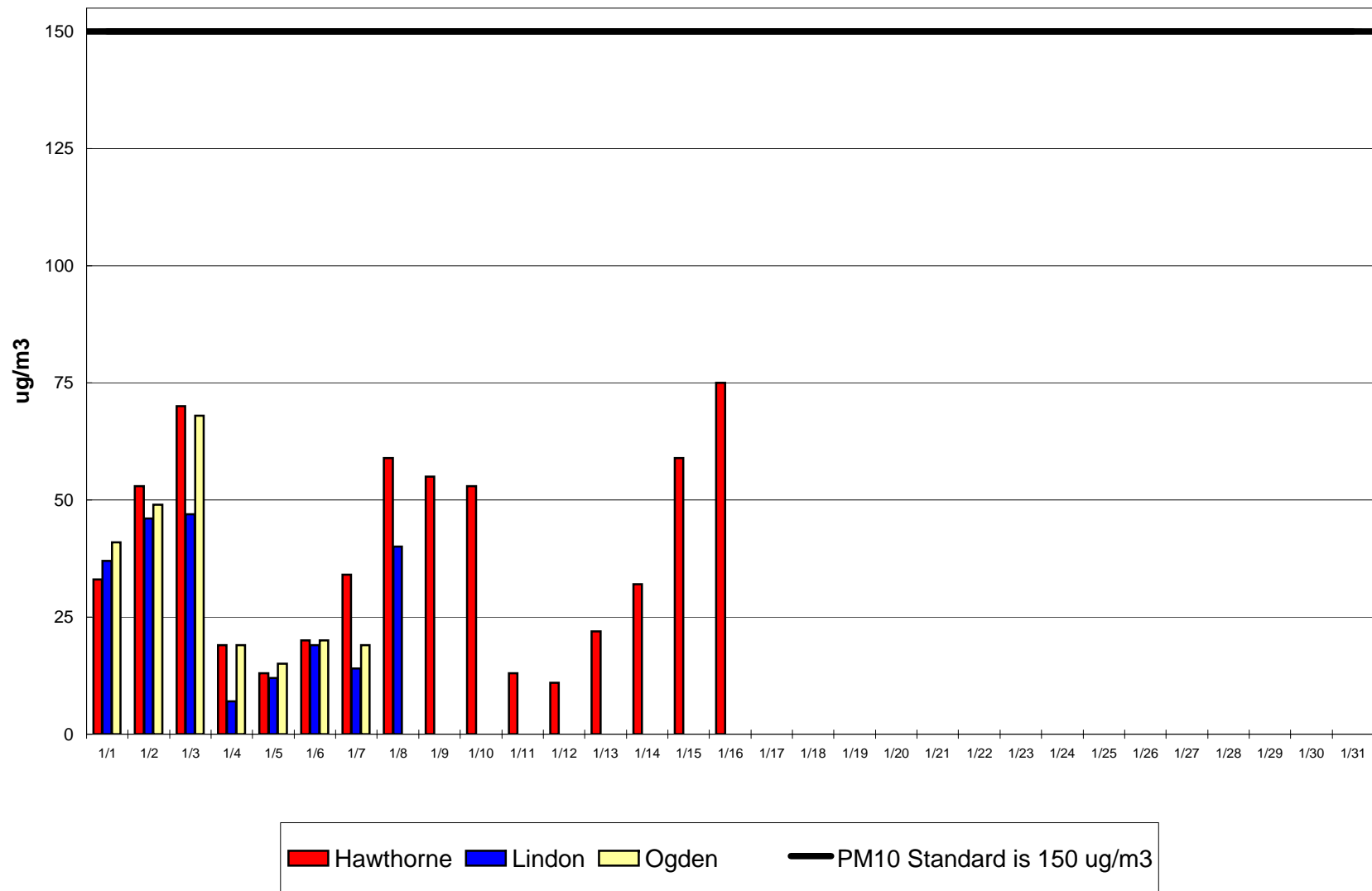


Daily PM<sub>10</sub> Filter at Hawthorne, Lindon, & Ogden  
December 2006



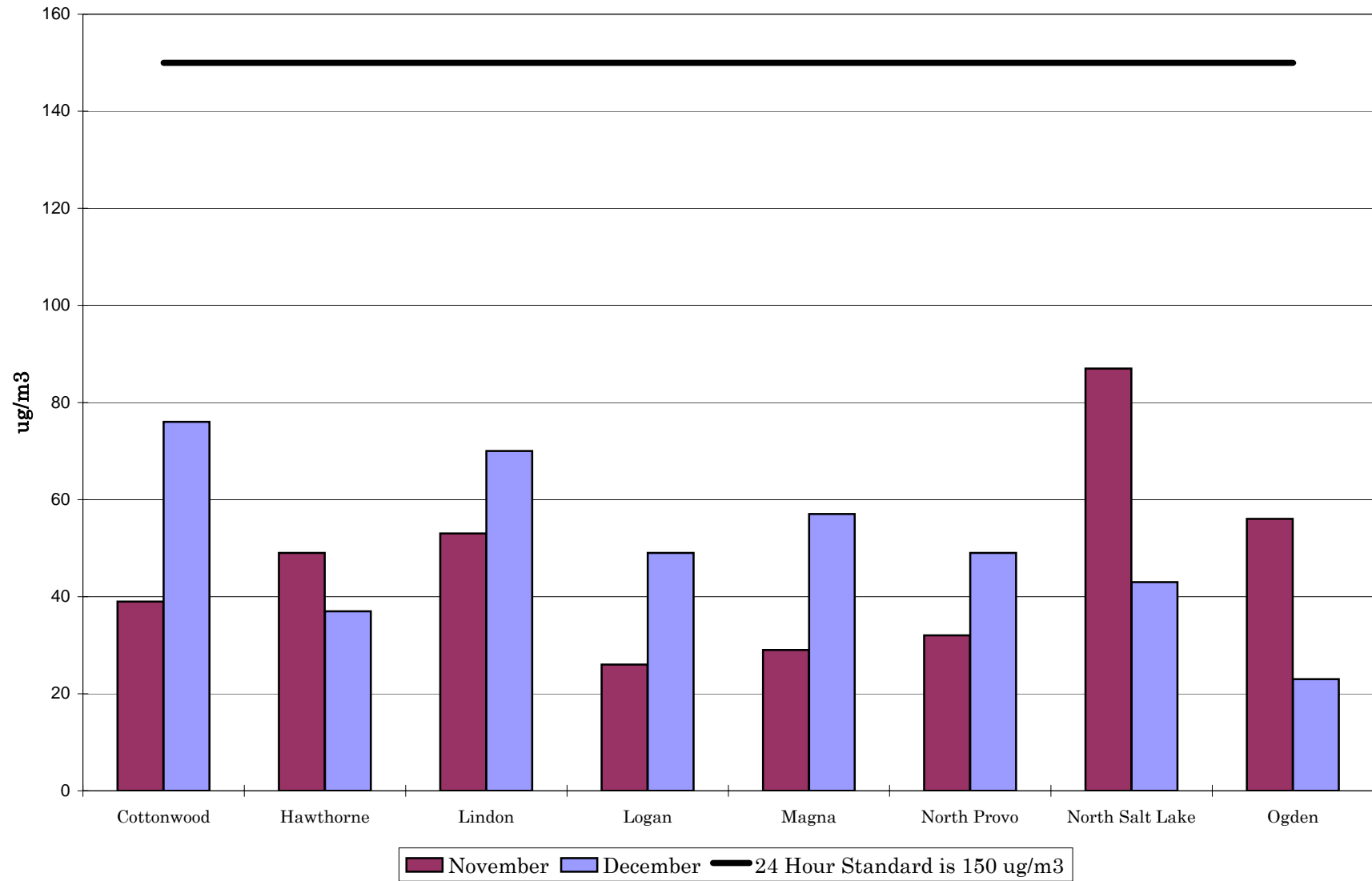
# Daily PM<sub>10</sub> Filter at Hawthorne, Lindon, & Ogden

## January 2007



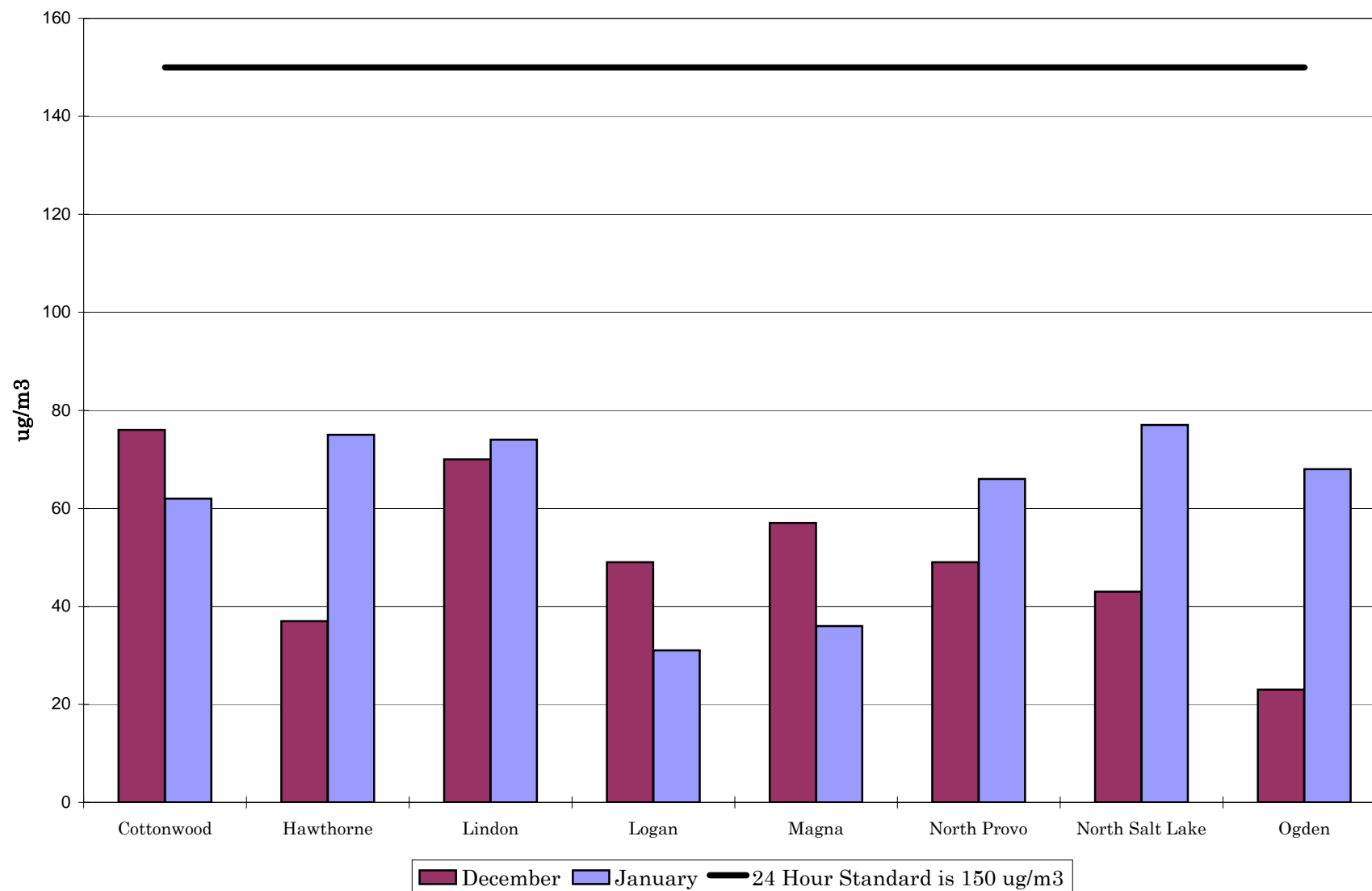
## Highest PM<sub>10</sub> Concentration for November-December 2006

PM<sub>10</sub> 24 Hour Standard is 150 ug/m<sup>3</sup>



## Highest PM<sub>10</sub> Concentration for December 2006-January 2007

PM<sub>10</sub> 24 Hour Standard is 150 ug/m<sup>3</sup>





# UTAH STATE DIVISION OF AIR QUALITY

47mm Partisol: PM10 Concentration Adjusted to Sea Level (24-hr average) in Micrograms per Cubic Meter

2006 December

Date	Cottonwood	Hawthorn	Lindon	Logan 4	Magna(W)	StGeorge2	NProvo	NProvo-X	NSL	NSL-X	Ogden2
12/01	33	37	23	13	19	48	24	24	43	47	17
12/02		22	25						24		20
12/03		32							28		23
12/04	55	56	56	27	30		36		61		42
12/05		78	59			64			86		57
12/06		88	62						99		63
12/07	76	71	70	49	57		49	48	100	101	55
12/08		81	65						91		51
12/09		34	18						34		49
12/10	13	20	15	21	10		18		18		21
12/11		15	12						19		8
12/12		22	13						21		10
12/13	21	23	16				24	23	20	21	13
12/14		20	19						13		14
12/15		17	15						34		12
12/16	4	11	7				4		6		5
12/17		12	10						6		9
12/18		18	22						23		20
12/19	34	49	25	24	25		26	25	61	60	23
12/20		50	37						56		39
12/21		67	47						70		48
12/22	45	49	48	43	39		51		72		46
12/23		28	38						14		24
12/24		40	43								21
12/25	40	44	46	9	26		37	36	33	32	26
12/26		52	48								43
12/27		15	5								11
12/28	3	7	2	2	2		5				6
12/29		11	17								16
12/30		26	19								22
12/31	33	36	27	17	22		24	23	38	39	34
Arith Mean	32	36	30	23	26	56	27	30	43	50	27
Max 24-hr Avg	76	88	70	49	57	64	51	48	100	101	63
Std. Dev	22	23	20	15	16	11	15	10	29	28	17
Days of Data	11	31	30	9	9	2	11	6	25	6	31
Days >150											
Yearly Avg	26	24	26	20	20	36	23	23	44	47	27

# UTAH STATE DIVISION OF AIR QUALITY

47mm Partisol: PM10 Concentration Adjusted to Sea Level (24-hr average) in Micrograms per Cubic Meter

2007 January

Date	Cottonwood	Hawthorn	Lindon	Logan 4	Magna(W)	StGeorge2	NProvo	NProvo-X	NSL	NSL-X	Ogden2
01/01		33	37						30		41
01/02		53	46						56		49
01/03	62	70	74	31	36		66		73		68
01/04		19	7						17		19
01/05		13	12						12		15
01/06	14	20	19		5		17	18	20	19	20
01/07		34	14								19
01/08			40								
01/09	48										
01/10									77		
01/11									9		
01/12									17		
01/13									30		
01/14											
01/15											
01/16											
01/17											
01/18											
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01/21											
01/22											
01/23											
01/24											
01/25											
01/26											
01/27											
01/28											
01/29											
01/30											
01/31											

Arith Mean	41	34	31	31	21		42	18	34	19	33
Max 24-hr Avg	62	70	74	31	36		66	18	77	19	68
Std. Dev	24	20	23		22		35		25		20
Days of Data	3	7	8	1	2		2	1	10	1	7
Days >150											
Yearly Avg	26	24	26	20	20	36	23	23	44	47	27